

Requested by Representative HELM

**PROPOSED AMENDMENTS TO
HOUSE BILL 3342**

1 In line 2 of the printed bill, after “water” insert “; creating new pro-
2 visions; and amending ORS 536.045, 536.410, 537.145, 537.147, 537.150, 537.153,
3 537.211, 537.225, 537.230, 537.252, 537.348, 537.409, 537.470, 537.610, 537.620,
4 537.621, 537.630, 538.450, 540.520, 540.524, 540.535, 540.570, 540.580, 540.585,
5 543.220, 543A.035, 543A.040, 543A.055 and 543A.120”.

6 Delete lines 4 through 8 and insert:
7

8 **“ELECTRONIC FORMS OF DOCUMENTS**

9
10 **“SECTION 1. ORS 536.045 is added to and made a part of ORS**
11 **chapter 536.**

12 **“SECTION 2.** ORS 536.045 is amended to read:

13 “536.045. (1) Notwithstanding any provision of ORS chapters 536 to 540,
14 543 or 543A that requires the mailing of a document, the submission of a
15 document in written form or the provision of a certified copy of a document,
16 the Water Resources [*Department*] **Commission** may adopt rules:

17 “(a) Allowing the submission of one or more types of document to the
18 **commission or the Water Resources** Department by electronic means in
19 lieu of submission by mailing or submission in written form;

20 “(b) [*Allowing the department, with the consent of the recipient, to*] **Al-**
21 **lowing the department or commission to** send one or more types of doc-

1 ument in electronic form in lieu of mailing or other sending of the document
2 in written form, **unless the recipient has requested mailing or other**
3 **sending of the document in written form; or**

4 “(c) Identifying acceptable means for verifying the authenticity of a doc-
5 ument sent by electronic means in lieu of the provision of a certified copy
6 of the document.

7 “(2) [*The department may not adopt rules to require the submission of*
8 *documents to the department by electronic means. The department may not re-*
9 *quire a recipient to consent to the receipt of documents from the department*
10 *by electronic means.*] **Notwithstanding subsection (1) of this section**, the
11 **department or commission** may not use electronic means in lieu of service
12 under ORCP 7 or notice under ORS 183.413 or 183.415.

13 “(3) For purposes of determining timeliness or calculating deadlines, a
14 document sent by electronic means in accordance with [*department*] **law or**
15 **commission** rules is considered to be delivered when sent.

16 “(4) Notwithstanding any provision of ORS chapters 536 to 540, 543 or
17 543A that specifies a fee amount, the department may reduce or waive the
18 fee for a document that the department sends or receives by electronic
19 means.

20 “(5) **To satisfy a requirement to provide public notice, the depart-**
21 **ment may publish notice in a newspaper of general circulation. The**
22 **cost of the publication shall be paid by the applicant in advance to the**
23 **department.**

24

25 **“PUBLICATION IN A WEEKLY PUBLIC NOTICE**

26

27 **“SECTION 3.** ORS 537.145 is amended to read:

28 “537.145. (1) If an application is made for a permit to appropriate water
29 for hydroelectric purposes, the Water Resources Department shall give writ-
30 ten notice of the filing of the application to the owner of any land that is:

1 “(a) Adjacent to any portion of the stream in which the quantity of water
2 will be decreased by the project; or

3 “(b) Adjacent to the site of the proposed hydroelectric project.

4 “(2) The department shall also publish notice of the application [*once each*
5 *week for at least two successive weeks and for such further time, if any, as the*
6 *department shall determine, in a newspaper of general circulation in each*
7 *county in which the project covered by the application is located*] **in the**
8 **weekly public notice of the department.**

9 “**SECTION 4.** ORS 537.252 is amended to read:

10 “537.252. (1) When issuing a water right certificate under ORS 537.250 to
11 a district, or to a government agency for a district, the Water Resources
12 Department may issue the water right certificate for land not described in
13 the permit if:

14 “(a) Water furnished by the district under the permit has been applied
15 beneficially to the land;

16 “(b) The land not described in the permit that is proposed to be included
17 in the certificate is included within the legally established boundaries of the
18 district and is subject to the charges, assessments and liens of the district;

19 “(c) The certificate does not authorize a greater rate, duty or acreage
20 than is authorized by the terms of the permit, and all other conditions of the
21 permit are satisfied;

22 “(d) The inclusion of land not described in the permit will not result in
23 injury to other existing water rights or in enlargement of the right author-
24 ized under the permit; and

25 “(e) The impact to the water source of including land not described in the
26 permit will not differ significantly from the impact expected at the time the
27 permit was issued for the lands described in the permit.

28 “(2) If a district proposes to use water on lands not described in the per-
29 mit, the Water Resources Department may issue a certificate that includes
30 such additional lands if all of the conditions of subsection (1) of this section

1 are satisfied and if, no later than 60 days before the district actually applies
2 the water to the lands not described in the permit, the district provides
3 written notice to the department. The notice shall include a copy of the or-
4 iginal permit map modified to show the lands to be added and lands to be
5 removed from the description of the place of use of the water. Upon receipt
6 of the notice from the district, the department shall provide public notice
7 of the proposed change by means of publication in the department’s weekly
8 **public notice** [*notice and by publication once each week for two successive*
9 *weeks in a newspaper having general circulation in the county or counties in*
10 *which the affected lands are located. The cost of publication shall be paid by*
11 *the district*].

12 “(3) If a district has issued an order of inclusion or exclusion, the
13 boundaries of the irrigation district shall be deemed to have been legally
14 changed in the absence of approval of the Secretary of the Interior.

15 “(4) As used in this section:

16 “(a) ‘District’ has the meaning given in ORS 540.505.

17 “(b) ‘Legally established boundaries’ means the boundaries of a district
18 as established at the time of creation of the district and as the boundaries
19 may have changed after creation of the district by an inclusion, exclusion
20 or merger proceeding according to state law.

21 **“SECTION 5.** ORS 540.520 is amended to read:

22 “540.520. (1)(a) Except when the application is made under ORS 541.327
23 or when an application for a temporary transfer is made under ORS 540.523,
24 if the holder of a water use subject to transfer for irrigation, domestic use,
25 manufacturing purposes, or other use, for any reason desires to change the
26 place of use, the point of diversion, or the use made of the water, an appli-
27 cation to make such change, as the case may be, shall be filed with the
28 Water Resources Department.

29 “(b) A holder of a water right certificate that authorizes the storage of
30 water may change the type of use identified in the water right certificate,

1 as described in this section.

2 “(2) The application required under subsection (1) of this section shall
3 include:

4 “(a) The name of the owner;

5 “(b) The previous use of the water;

6 “(c) A description of the premises upon which the water is used;

7 “(d) A description of the premises upon which it is proposed to use the
8 water;

9 “(e) The use that is proposed to be made of the water;

10 “(f) The reasons for making the proposed change; and

11 “(g) Evidence that the water has been used over the past five years ac-
12 cording to the terms and conditions of the owner’s water right certificate
13 or that the water right is not subject to forfeiture under ORS 540.610.

14 “(3) If the application required under subsection (1) of this section is
15 necessary to allow a change in a water right pursuant to ORS 537.348, is
16 necessary to complete a project funded under ORS 541.932, or is approved by
17 the State Department of Fish and Wildlife as a change that will result in a
18 net benefit to fish and wildlife habitat, the **Water Resources** Department,
19 at the discretion of the Water Resources Director, may waive or assist the
20 applicant in satisfying the requirements of subsection (2)(c) and (d) of this
21 section. The assistance provided by the department may include, but need
22 not be limited to, development of an application map.

23 “(4) If the application is to change the point of diversion, the transfer
24 shall include a condition that the holder of the water right provide a proper
25 fish screen at the new point of diversion, if requested by the State Depart-
26 ment of Fish and Wildlife.

27 “[5] *Upon the filing of the application the department shall give notice by*
28 *publication in a newspaper having general circulation in the area in which the*
29 *water rights are located, for a period of at least two weeks and not less than*
30 *one publication each week. The notice shall include the date on which the last*

1 notice by publication will occur. The cost of the publication shall be paid by
2 the applicant in advance to the department. In applications for only a change
3 in place of use or for a change in the point of diversion of less than one-fourth
4 mile, and where there are no intervening diversions between the old diversion
5 of the applicant and the proposed new diversion, no newspaper notice need be
6 published. The department shall include notice of such applications in the
7 weekly notice published by the department.]

8 “[6] Within 30 days after the last publication of a newspaper notice of the
9 proposed transfer or the mailing of the department’s weekly notice, whichever
10 is later, any person may file, jointly or severally, with the department, a protest
11 against approval of the application.]

12 **“(5) The Water Resources Department shall undertake an initial
13 review of an application under subsection (1) of this section.**

14 **“(6)(a) Upon completion of the initial review, the department shall
15 notify the applicant of its preliminary determinations, identify any
16 outstanding information that is necessary to continue processing the
17 application and allow the applicant 30 days from the date of notice to:**

18 **“(A) Notify the department to stop processing the application; or**

19 **“(B) Notify the department to continue processing the application
20 and provide any outstanding information to the department.**

21 **“(b) If, within 30 days from the date of the notice, the applicant
22 does not notify the department as provided in paragraph (a) of this
23 subsection, does not provide all outstanding information as provided
24 in paragraph (a)(B) of this subsection or notifies the department to
25 stop processing the application, the department shall close the file for
26 the application and take no further action on the application. The de-
27 partment may allow an applicant up to 60 additional days to provide
28 outstanding information if the applicant requests additional time and
29 the department determines that the applicant is undertaking reason-
30 able efforts to provide the information in a timely manner to the de-**

1 **partment.**

2 **“(c) If, within 30 days from the date of the notice or an additional**
3 **time period allowed under paragraph (b) of this subsection, the appli-**
4 **cant notifies the department to proceed with the application and pro-**
5 **vides any outstanding information necessary to continue processing**
6 **the application, the department shall:**

7 **“(A) Proceed with processing the application.**

8 **“(B) Give notice of the initial review in the weekly public notice of**
9 **the department and accept written public comments for 30 days.**

10 **“(7) Upon issuance of a proposed final order, the department shall**
11 **give notice of the order in the weekly public notice of the department.**
12 **If the department determines that more than five water rights would**
13 **be injured as a result of the change proposed in an application under**
14 **subsection (1) of this section, the department shall publish notice once**
15 **each week for two consecutive weeks in a newspaper of general cir-**
16 **ulation in the area in which the water rights are located. The cost**
17 **of the publication shall be paid by the applicant in advance to the de-**
18 **partment.**

19 **“[(7)] (8) If a timely protest is filed, or in the opinion of the Water Re-**
20 **sources Director a hearing is necessary to determine whether the proposed**
21 **changes as described by the application would result in injury to existing**
22 **water rights, the department shall hold a hearing on the matter. Notice and**
23 **conduct of the hearing shall be under the provisions of ORS chapter 183,**
24 **pertaining to contested cases, and shall be held in the area where the rights**
25 **are located unless all parties and persons who filed a protest under this**
26 **subsection stipulate otherwise. A hearing is not required if:**

27 **“(a) All issues in the contested case are resolved pursuant to a**
28 **settlement;**

29 **“(b) The protest is withdrawn; or**

30 **“(c) The protestant defaults.**

1 “[8] (9) An application for a change of use under this section is not re-
2 quired if the beneficial use authorized by the water use subject to transfer
3 is irrigation and the owner of the water right uses the water for incidental
4 agricultural, stock watering and other uses related to irrigation use, so long
5 as there is no increase in the rate, duty, total acreage benefited or season
6 of use.

7 “[9] (10) A water right transfer under subsection (1) of this section is
8 not required for a general industrial use that was not included in a water
9 right certificate issued for a specific industrial use if:

10 “(a) The quantity of water used for the general industrial use is not
11 greater than the rate allowed in the original water right and not greater
12 than the quantity of water diverted to satisfy the authorized specific use
13 under the original water right;

14 “(b) The location where the water is to be used for general industrial use
15 was owned by the holder of the original water right at the time the water
16 right permit was issued; and

17 “(c) The person who makes the change in water use provides the following
18 information to the Water Resources Department:

19 “(A) The name and mailing address of the person using water under the
20 water right;

21 “(B) The water right certificate number;

22 “(C) A description of the location of the industrial facility owned by the
23 holder of the original water right at the time the water right permit was
24 issued; and

25 “(D) A description of the general industrial use to be made of the water
26 after the change.

27 **“SECTION 6.** ORS 540.535 is amended to read:

28 “540.535. After receipt of an exchange application, the Water Resources
29 Commission shall give notice of the application **in the weekly public notice**
30 **of the Water Resources Department** *[by publishing notice of the applica-*

1 *tion in a newspaper having general circulation in the area in which the water*
2 *uses are located at least once each week for at least two successive weeks. The*
3 *cost of providing the notice by publication shall be paid in advance by the*
4 *applicant to the commission].*

5 **“SECTION 7.** ORS 543.220 is amended to read:

6 “543.220. (1) If an application is made for a preliminary permit, after said
7 application has been referred to hearing, the Water Resources Commission
8 shall give written notice of the filing of the application to:

9 “(a) Any municipality or other person or corporation that, in the judg-
10 ment of the commission, is likely to be interested in or affected by the pro-
11 posed project; and

12 “(b) The owner of any land that is:

13 “(A) Adjacent to any portion of the stream in which the quantity of water
14 will be decreased by the project; or

15 “(B) Adjacent to the site of the proposed project.

16 “(2) The commission shall also publish notice of the application [*once each*
17 *week for at least two successive weeks and for such further time, if any, as the*
18 *commission shall determine, in a newspaper of general circulation in each*
19 *county in which the project covered by the application is located]* **in the**
20 **weekly public notice of the Water Resources Department.**

21 “(3) No application for the appropriation or use of water for the devel-
22 opment of 1,000 theoretical horsepower or more shall be granted until at
23 least six months after the application for a preliminary permit has been filed.

24

25 **“PASSING ON CREDIT CARD FEES**

26

27 **“SECTION 8.** Section 9 of this 2025 Act is added to and made a part
28 **of ORS chapter 536.**

29 **“SECTION 9.** (1) **The Water Resources Department may accept**
30 **payments by debit or credit card for any products or services offered**

1 **by, or fees owed to, the department.**

2 **“(2) The department may add a nonrefundable fee to the amount**
3 **of any payment made by debit or credit card in an amount reasonably**
4 **calculated to offset the impact to the department of financial institu-**
5 **tion fees related to debit or credit card transactions.**

6

7 **“WITHDRAWAL OF WATERS FROM APPROPRIATION VIA RULE**

8

9 **“SECTION 10.** ORS 536.410 is amended to read:

10 **“536.410. (1) When the Water Resources Commission determines that it is**
11 **necessary to [*insure*] **ensure** compliance with the state water resources pol-**
12 **icy or that it is otherwise necessary in the public interest to conserve the**
13 **water resources of this state for the maximum beneficial use and control**
14 **thereof that any unappropriated waters of this state, including unappropri-**
15 **ated waters released from storage or impoundment into the natural flow of**
16 **a stream for specified purposes, be withdrawn from appropriation for all or**
17 **any uses including exempt uses under ORS 537.545, the commission, on behalf**
18 **of the state, may [*issue an order of*] **adopt a rule establishing** withdrawal.**

19 **“(2) Prior to the [*issuance of the order of*] **adoption of the rule estab-****

20 **lishing** withdrawal, the commission shall hold a public hearing on the ne-

21 **cessity for the withdrawal. Notice of the hearing shall be published in at**

22 **least one issue each week for at least two consecutive weeks prior to the**

23 **hearing in a newspaper of general circulation published in each county in**

24 **which are located the waters proposed to be withdrawn.**

25 **“(3) The [*order of*] **rule establishing** withdrawal shall specify with**

26 **particularity the waters withdrawn from appropriation, the uses for which**

27 **the waters are withdrawn[,] **and** the reason for the withdrawal [*and the du-***

28 **ration of the withdrawal]. The commission may [*modify or revoke the order***

29 **at any time] **amend or repeal the rule to modify or revoke the with-****

30 **drawal.**

1 “[4] Copies of the order of withdrawal and notices of any modification or
2 revocation of the order of withdrawal shall be filed in the Water Resources
3 Department.]

4 “[5] (4) While the [order of] **rule establishing** withdrawal is in effect,
5 **a person may not submit, and the Water Resources Department may**
6 **not file or process, [no] an application for:**

7 **“(a) A permit to appropriate the waters withdrawn for the uses specified**
8 **in the [order and no application for] rule; or**

9 **“(b) A preliminary permit or license involving appropriations of such**
10 **waters [shall be received for filing by the Water Resources Commission].**

11 **“SECTION 11. (1) The amendments to ORS 536.410 by section 10 of**
12 **this 2025 Act apply to withdrawals of waters from appropriation that**
13 **occur on or after the operative date specified in section 48 of this 2025**
14 **Act.**

15 **“(2) Withdrawals of waters from appropriation under ORS 536.410**
16 **that are in effect on the operative date specified in section 48 of this**
17 **2025 Act shall remain in effect unless the withdrawals are modified or**
18 **revoked by the Water Resources Commission on or after the operative**
19 **date specified in section 48 of this 2025 Act.**

20

21 **“RETURNING APPLICATIONS THAT CANNOT BE APPROVED**

22

23 **“SECTION 12. Section 13 of this 2025 Act is added to and made a**
24 **part of ORS chapter 536.**

25 **“SECTION 13. The Water Resources Department shall publish,**
26 **make publicly available and regularly update a list of restrictions**
27 **where the source of water is:**

28 **“(1) Designated as a critical ground water area under ORS 537.730.**

29 **“(2) Subject to restrictions on allowed ground water uses by classi-**
30 **fication under ORS 536.340.**

1 **“(3) Withdrawn from appropriation under ORS chapter 538 or by**
2 **rule or order of the Water Resources Commission under ORS 536.410.**

3 **“SECTION 14.** ORS 537.150 is amended to read:

4 “537.150. (1)(a) Within 15 days after receiving an application, the Water
5 Resources Department shall determine whether the application contains the
6 information listed under ORS 537.140 (1) and is complete and not defective,
7 including the payment of all [*fees*] **applicable fees or fee amounts** required
8 under ORS 537.140 (5).

9 **“(b)** If the department determines that the application is incomplete or
10 defective or that not all [*fees*] **applicable fees or fee amounts** have been
11 paid, the department shall return the fees paid and the application.

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

18 “(3) If an application is complete and not defective, the department shall
19 determine whether the proposed use is prohibited [*by ORS chapter 538*]
20 **pursuant to a restriction under section 13 (3) of this 2025 Act, if the**
21 **department has information sufficient to make the determination at**
22 **the time of application intake.** If the proposed use is prohibited [*by ORS*
23 *chapter 538*] **as described in this subsection,** the department shall [*reject*]
24 **return** the application and [*return*] **all or a portion of the fees paid** to the
25 applicant with an explanation of the [*statutory prohibition*] **reason for the**
26 **return.**

27 “(4) If the proposed use is not prohibited [*by ORS chapter 538*] **under**
28 **subsection (3) of this section,** the department shall undertake an initial
29 review of the application and make a preliminary determination of:

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

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)(a) Upon completion of the initial review and no later than 30 days
6 after determining an application to be complete and not defective as de-
7 scribed in subsection (1) of this section, the department shall notify the ap-
8 plicant of its preliminary determinations and allow the applicant [14] **90** days
9 from the date of [mailing] **notice** within which to notify the department to
10 stop processing the application or to proceed with the application.

11 “(b) **If, within 90 days from the date of the notice, the applicant no-**
12 **tifies the department to stop processing the application or does not notify**
13 **the department whether to proceed with processing the application, the**
14 **department shall [return the application and all fees paid in excess of \$310.**
15 *If the department receives no timely response from the applicant, the depart-*
16 *ment shall proceed with the application.]* **close the file for the application**
17 **and take no further action on the application.**

18 “(c) **If, within 90 days from the date of the notice, the applicant**
19 **notifies the department to proceed with the application and pays any**
20 **remaining portion of the applicable examination fees, as described in**
21 **section 29 of this 2025 Act, the department shall:**

22 “(A) **Proceed with processing the application; and**

23 “(B) **Give notice of the initial review in the weekly public notice of**
24 **the department and accept written public comments for 30 days. The**
25 **notice must include a request for comments on the application and**
26 **information pertaining to how an interested person may obtain future**
27 **notices about the application and a copy of the proposed final order.**

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 ap-*
30 *plication in the weekly notice published by the department. The notice shall*

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

4 “[(7)] (6) Within 30 days after the public notice under subsection [(6)] (5)
5 of this section, any person interested in the application shall submit written
6 comments 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 15. (1) On and after the operative date specified in sec-**
10 **tion 48 of this 2025 Act, the Water Resources Department shall return**
11 **any pending application described in ORS 537.150 for which:**

12 **“(a) Receipt by the department occurred before the operative date**
13 **specified in section 48 of this 2025 Act;**

14 **“(b) A proposed final order has not been issued before the operative**
15 **date specified in section 48 of this 2025 Act; and**

16 **“(c) The proposed use of water is prohibited pursuant to a re-**
17 **striction described in section 13 (3) of this 2025 Act that was in effect**
18 **at the time the application was received.**

19 **“(2) The department shall return all or a portion of the fees paid**
20 **for pending applications returned under subsection (1) of this section.**

21 **“SECTION 16. Section 15 of this 2025 Act is repealed on January 2,**
22 **2050.**

23 **“SECTION 17. ORS 537.211 is amended to read:**

24 **“537.211. (1) The approval of an application referred to in ORS 537.140 or**
25 **537.400 shall be set forth in a water right permit issued by the Water Re-**
26 **sources Department. The permit shall specify the details of the authorized**
27 **use and shall set forth any terms, limitations and conditions as the depart-**
28 **ment considers appropriate including but not limited to any applicable con-**
29 **dition required under ORS 537.289. A copy of the permit shall be filed as a**
30 **public record in the department. The permit shall be mailed to the applicant,**

1 and upon receipt of the permit the permittee may proceed with the con-
2 struction of the necessary works and may take all action required to apply
3 the water to the designated beneficial use and to perfect the proposed ap-
4 propriation.

5 “(2) Except as provided in subsection [(6)] (7) of this section, if an appli-
6 cation under ORS 537.140 or 537.400 indicates that the applicant does not
7 have written authorization or an easement permitting access to nonowned
8 land crossed by the proposed ditch, canal or other work, the department may
9 issue a final order approving the application if the approval includes a con-
10 dition requiring the applicant to obtain such written authorization, or ease-
11 ment or ownership of such land and to provide the department with a copy
12 of the written authorization, easement or evidence of ownership.

13 “(3) If an application referred to in ORS 537.140 or 537.400 is rejected, the
14 department shall enter a written order setting forth the reasons for the re-
15 jection. The applicant shall take no action toward construction of the works
16 or use of the water. The department shall mail a copy of the order to the
17 applicant.

18 “(4) The holder of a water right permit may change the point of diversion,
19 change the point of appropriation, change the point of diversion to allow the
20 appropriation of ground water or use the water on land to which the right
21 is not appurtenant if:

22 “(a) The use of water on land to which the right is not appurtenant, the
23 change of point of diversion or the change in point of appropriation does not
24 result in injury to an existing water right;

25 “(b) For a proposed change in the place of use of the water, the land on
26 which the water is to be used is owned or controlled by the holder of the
27 permit and is contiguous to the land to which the permit is appurtenant;

28 “(c) All other terms of the permit remain the same, including but not
29 limited to the beneficial use for which the water is used and the number of
30 acres to which water is applied;

1 “(d) Prior approval is obtained from the district if the water is trans-
2 ported or conveyed by an irrigation district organized under ORS chapter
3 545, a drainage district organized under ORS chapter 547, a water improve-
4 ment district organized under ORS chapter 552, a water control district or-
5 ganized under ORS chapter 553 or a district improvement company or a
6 corporation organized under ORS chapter 554;

7 “(e) The holder of the permit provides written notice to the department
8 at least 60 days before making any changes to the lands, point of diversion
9 or point of appropriation described in the permit;

10 “[*f*] *The holder of the permit complies with the publication requirements*
11 *of ORS 540.520 (5), if applicable;*]

12 “[*g*] (f) Diversion is provided with a proper fish screen, if requested by
13 the State Department of Fish and Wildlife; and

14 “[*h*] (g) For a request to transfer the point of diversion to allow the
15 appropriation of ground water, the proposed change meets the standards set
16 forth in ORS 540.531 (2) or (3).

17 “**(5) The Water Resources Department may deny a change in the**
18 **point of appropriation under subsection (4) of this section if the pro-**
19 **posed point of appropriation is for a source of ground water restricted**
20 **under section 13 of this 2025 Act and the proposed use is subject to the**
21 **restriction.**

22 “[*5*] (6) Notwithstanding the requirements of subsection (4)(b) of this
23 section, the holder of a water right permit may change the place of use of
24 all or any portion of water under the permit to land that is not contiguous
25 to the land to which the permit is appurtenant if:

26 “(a) The change to noncontiguous land is in furtherance of mitigation or
27 conservation efforts undertaken for the purposes of benefiting a species listed
28 as sensitive, threatened or endangered under ORS 496.171 to 496.192 or the
29 federal Endangered Species Act of 1973 (16 U.S.C. 1531 to 1544), as deter-
30 mined by the listing agency; and

1 “(b) All other requirements of subsection (4) of this section are met.

2 “[6] (7) For an application made by or on behalf of a public corporation,
3 the department may issue a permit approving the application without re-
4 quiring the applicant to obtain prior written authorization or an easement
5 permitting access to nonowned lands affected by the proposed project. How-
6 ever, nothing in this subsection shall be construed to allow any person to
7 trespass on the lands of another person.

8 “[7] (8) When the department receives notice under subsection (4)(e) of
9 this section, the department shall publish the notice in the department’s
10 weekly public notice of water right applications.

11 “[8] (9) If the use of water under the permit is for operation of a mining
12 operation as defined in ORS 517.952:

13 “(a) Review of the application and approval or denial of the application
14 shall be coordinated with the consolidated application process under ORS
15 517.952 to 517.989. However, such review and approval or denial shall take
16 into consideration all policy considerations for the appropriation of water
17 as set forth in this chapter and ORS chapter 536.

18 “(b) The permit may be issued for exploration under ORS 517.702 to
19 517.740, but the permit shall be conditioned on the applicant’s compliance
20 with the consolidated application process.

21 “(c) The permit shall include a condition that additional conditions may
22 be added to the use of water when a water right certificate is issued, or when
23 the use of water is changed pursuant to ORS 540.520 and 540.530 to use for
24 a mine.

25 “[9] (10) As used in this section, ‘contiguous’ includes land separated
26 from the land to which a water right is appurtenant by roads, utility corri-
27 dors, irrigation ditches or publicly owned rights of way.

28 “**SECTION 18.** ORS 537.409 is amended to read:

29 “537.409. (1) In lieu of the process set forth in ORS 537.140 to 537.211 for
30 applying for a water right permit, an [*owner of a reservoir*] **applicant for a**

1 **reservoir permit** may submit an application to the Water Resources De-
2 partment to issue a water right permit under ORS 537.211 or a certificate
3 under ORS 537.250 according to the process set forth in this section if the
4 reservoir:

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

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

8 “(c) Does not pose a significant detrimental impact to existing fishery
9 resources as determined on the basis of information submitted by the State
10 Department of Fish and Wildlife; *[and]*

11 “(d) Is not prohibited under ORS 390.835[.]; **and**

12 **“(e) Is not prohibited under ORS chapter 538.**

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

17 “(a) Include the quantity of water to be stored by the reservoir, a map
18 indicating the location of the reservoir and the source of the water used to
19 fill the reservoir; and

20 “(b) Be accompanied by the fee established in ORS 536.050 (1)(q).

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

25 “(4) Within 60 days after receiving an application under subsection (1) of
26 this section, the Water Resources Department shall provide public notice of
27 the application in the *[manner the department determines to be the most ap-
28 propriate]* **weekly public notice of the department.**

29 “(5) Within 60 days after the department provides public notice under
30 subsection (4) of this section, any person may submit detailed, legally ob-

1 tained information in writing, requesting the department to deny the appli-
2 cation for a permit on the basis that the reservoir:

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

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

6 “(6) In accordance with rules established by the Water Resources Com-
7 mission for an expedited public interest review process for applications sub-
8 mitted under this section or in response to a request under subsection (5)
9 of this section, the department shall conduct a public interest review of the
10 reservoir application. The review shall be limited to issues pertaining to:

11 “(a) Water availability;

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

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

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

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

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

26 “(10) Notwithstanding the requirement for a survey under ORS 537.230,
27 a survey of the appropriation is not required for a reservoir that has a
28 storage capacity of less than 9.2 acre-feet of water. For a reservoir qualifying
29 under this subsection, a permittee shall submit to the department a claim
30 of beneficial use within one year after the date of completion of construction.

1 A claim of beneficial use for a reservoir qualifying under this subsection
2 shall require only a written affidavit signed by the permittee that includes
3 the following:

4 “(a) The dimensions of the reservoir.

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

6 “(c) A map identifying the location of the reservoir. The map shall comply
7 with standards established by the Water Resources Commission. The map
8 required under this subsection need not be prepared by a water right exam-
9 iner certified under ORS 537.798.

10 “(11) Any person applying for a secondary permit for the use of stored
11 water from a reservoir qualifying under subsection (10) of this section shall
12 submit a survey prepared by a water right examiner certified under ORS
13 537.798. The survey required under this subsection shall apply to the storage
14 reservoir and to the secondary use of the water in the reservoir.

15 **“SECTION 19.** ORS 537.610 is amended to read:

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

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

26 “(3) A certificate of registration issued under this section may not be
27 construed as a final determination of any matter stated in the certificate of
28 registration. The right of the registrant to appropriate ground water under
29 a certificate of registration is subject to determination under ORS 537.670
30 to 537.695, and is not final or conclusive until so determined and a ground

1 water right certificate issued. A right to appropriate ground water under a
2 certificate of registration has a tentative priority from the date when the
3 construction of the well was begun.

4 “(4) The commission shall adopt by rule the process and standards by
5 which the commission will recognize changes in the place of use, type of use
6 or point of appropriation for claims to appropriate ground water registered
7 under this section. The commission shall adopt fees not to exceed \$1,820 for
8 actions taken to modify a certificate of registration.

9 “(5) **The Water Resources Department may deny a change in the**
10 **point of appropriation under subsection (4) of this section if the pro-**
11 **posed point of appropriation is for a source of ground water restricted**
12 **under section 13 of this 2025 Act and the proposed use is subject to the**
13 **restriction.**

14 “**SECTION 20.** ORS 537.620 is amended to read:

15 “537.620. (1) The Water Resources Department shall accept all applica-
16 tions for permits submitted under ORS 537.615 in proper form.

17 “(2)(a) Within 15 days after receiving the application, the department
18 shall determine whether the application contains the information listed un-
19 der ORS 537.615 (2) and is complete and not defective, including the payment
20 of all [*fees*] **applicable fees or fee amounts** required under ORS 537.615 (5).

21 “(b) If the department determines that the application is incomplete or
22 defective or that not all **applicable fees or fee amounts** have been paid, the
23 department shall return the fees paid and the application to the applicant
24 [*to remedy the defect*].

25 “(c) If an application is complete and not defective, the department shall
26 indorse on the application the date upon which the application was received
27 at the department, which shall be the priority date for any water right issued
28 in response to the application.

29 “(3)(a) **Except as provided in paragraph (c) of this subsection,** upon
30 determining that an application is complete and not defective, the depart-

1 ment shall determine whether the proposed use is prohibited by statute **or**
2 **not allowed pursuant to a restriction under section 13 of this 2025 Act,**
3 **if the department has information sufficient to make the determi-**
4 **nation at the time of application intake.**

5 “(b) If the proposed use is prohibited [*by statute*] **under paragraph (a)**
6 **of this subsection,** the department shall [*reject*] **return** the application and
7 [*return*] all **or a portion of the** fees to the applicant with an explanation
8 of the [*statutory prohibition*] **reason for the return.**

9 “(c) **Paragraph (a) of this subsection does not apply to applications**
10 **related to the recovery of ground water under an artificial recharge**
11 **or aquifer storage and recover project.**

12 “(4) If the proposed use is not prohibited [*by statute*] **as described in**
13 **subsection (3)(a) of this section,** the department shall undertake an initial
14 review of the application and make a preliminary determination of:

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

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

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

22 “(5)(a) Upon completion of the initial review and no later than 30 days
23 after determining an application to be complete and not defective as de-
24 scribed in subsection (2) of this section, the department shall notify the ap-
25 plicant of its preliminary determinations and allow the applicant [~~14~~] **90** days
26 from the date of [*mailing*] **the notice** within which to notify the department
27 to stop processing the application or to proceed with the application.

28 “(b) **If, within 90 days from the date of the notice,** the applicant no-
29 tifies the department to stop processing the application **or does not notify**
30 **the department whether to proceed with processing the application,** the

1 department shall *[return the application and all fees paid in excess of \$310.*
2 *If the department receives no timely response from the applicant, the depart-*
3 *ment shall proceed with the application.]* **close the file for the application**
4 **and take no further action on the application.**

5 **“(c) If, within 90 days from the date of the notice, the applicant**
6 **notifies the department to proceed with the application and pays any**
7 **remaining portion of the applicable fees, as described in section 29 of**
8 **this 2025 Act, the department shall:**

9 **“(A) Proceed with processing the application; and**

10 **“(B) Give notice of the initial review in the weekly public notice of**
11 **the department and accept written public comments for 30 days. The**
12 **notice must include a request for comments on the application and**
13 **information pertaining to how an interested person may obtain future**
14 **notices about the application and a copy of the proposed final order.**

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 ap-*
17 *plication in the weekly notice published by the department. The notice shall*
18 *include a request for comments on the application and information pertaining*
19 *to how an interested person may obtain future notices about the application*
20 *and a copy of the proposed final order.]*

21 *“[(7)]* **(6)** Within 30 days after the public notice under subsection *[(6)]* **(5)**
22 of this section, any person interested in the application shall submit written
23 comments 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 21. (1) On and after the operative date specified in sec-**
27 **tion 48 of this 2025 Act, the Water Resources Department shall return**
28 **any pending application described in ORS 537.620, other than an ap-**
29 **plication under ORS 536.295, for which:**

30 **“(a) Receipt by the department occurred before the operative date**

1 specified in section 48 of this 2025 Act;

2 “(b) A proposed final order has not been issued before the operative
3 date specified in section 48 of this 2025 Act;

4 “(c) The proposed use of water is prohibited under a restriction in
5 section 13 of this 2025 Act that was in effect at the time the application
6 was received; and

7 “(d) The proposed use of water is not related to the recovery of
8 ground water under an artificial recharge or aquifer storage and re-
9 covery project.

10 “(2) The department shall return all or a portion of the fees paid
11 for pending applications returned under subsection (1) of this section.

12 “SECTION 22. Section 21 of this 2025 Act is repealed on January 2,
13 2050.

14 “SECTION 23. Section 24 of this 2025 Act is added to and made a
15 part of ORS 540.505 to 540.585.

16 “SECTION 24. The Water Resources Department may deny a change
17 in the point of appropriation under ORS 540.505 to 540.585 for a ground
18 water right if the proposed point of appropriation is for a source of
19 ground water restricted under section 13 of this 2025 Act and the pro-
20 posed use is subject to the restriction.

21

22

“LIMITS ON EXTENSIONS

23

24 “SECTION 25. ORS 537.230 is amended to read:

25 “537.230. (1) As used in this section, ‘undeveloped portion’ means the dif-
26 ference between the maximum rate or duty specified in a water right permit
27 and the maximum rate or duty diverted as of the later of:

28 “(a) June 29, 2005;

29 “(b) The time specified in the permit to perfect the water right; or

30 “(c) The time specified in the last-approved extension of time to perfect

1 the water right.

2 “(2) Except for a holder of a permit for municipal [*use*], **quasi-municipal,**
3 **group domestic or group domestic expanded uses**, the holder of a water
4 right permit shall prosecute the construction of any proposed irrigation or
5 other work with reasonable diligence and complete the construction within
6 a reasonable time, as fixed in the permit by the Water Resources Depart-
7 ment, not to exceed [*five*] **seven** years from the date of approval.

8 “(3) The holder of a permit for municipal use shall commence and com-
9 plete the construction of any proposed works within 20 years from the date
10 on which a permit for municipal use is issued under ORS 537.211. The con-
11 struction must proceed with reasonable diligence and be completed within
12 the time specified in the permit, not to exceed 20 years. However, the de-
13 partment may order and allow an extension of time to complete construction
14 or to perfect a water right beyond the time specified in the permit under the
15 following conditions:

16 “(a) The holder shows good cause. In determining the extension, the de-
17 partment shall give due weight to the considerations described under ORS
18 539.010 (5) and to whether other governmental requirements relating to the
19 project have significantly delayed completion of construction or perfection
20 of the right;

21 “(b) The extension of time is conditioned to require that the holder sub-
22 mit, and obtain department approval of, a water management and conserva-
23 tion plan;

24 “(c) The extension of time is conditioned to provide that the holder may
25 divert the undeveloped portion of the permit only upon approval by the de-
26 partment of the water management and conservation plan; and

27 “(d) For the first extension issued after June 29, 2005, for a permit for
28 municipal use issued before November 2, 1998, the department finds that the
29 undeveloped portion of the permit is conditioned to maintain, in the portions
30 of waterways affected by water use under the permit, the persistence of fish

1 species listed as sensitive, threatened or endangered under state or federal
2 law. The department shall base its finding on existing data and upon the
3 advice of the State Department of Fish and Wildlife. An existing fish pro-
4 tection agreement between the permit holder and a state or federal agency
5 that includes conditions to maintain the persistence of any listed fish species
6 in the affected portion of the waterway is conclusive for purposes of the
7 finding.

8 *“(4) Except as provided in ORS 537.240 and 537.248 and subsection (3) of*
9 *this section, the Water Resources Department, for good cause shown, shall or-*
10 *der and allow an extension of time, including an extension beyond the five-year*
11 *limit established in subsection (2) of this section within which irrigation or*
12 *other works shall be completed or the right perfected. In determining the ex-*
13 *ension, the department shall give due weight to the considerations described*
14 *under ORS 539.010 (5) and to whether other governmental requirements relat-*
15 *ing to the project have significantly delayed completion of construction or*
16 *perfection of the right.]*

17 **“(4)(a) The holder of a right for quasi-municipal, group domestic**
18 **or group domestic expanded uses shall complete construction of pro-**
19 **posed works and apply water beneficially within seven years from the**
20 **date on which a permit for such uses is issued under ORS 537.211. The**
21 **construction must proceed with reasonable diligence and be completed**
22 **within the time specific in the permit, not to exceed seven years.**

23 **“(b) Notwithstanding paragraph (a) of this subsection, the Water**
24 **Resources Department may, for good cause shown, order and allow**
25 **one extension of time to complete construction and apply water**
26 **beneficially, not exceeding:**

27 **“(A) Twenty years from the date that the extension is approved for**
28 **quasi-municipal use.**

29 **“(B) Ten years from the date the extension is approved for group**
30 **domestic use or group domestic expanded use.**

1 **“(c) In determining the extension under paragraph (b) of this sub-**
2 **section, the department shall give due weight to considerations in ORS**
3 **539.010 (5) and to whether other governmental requirements relating**
4 **to the project have significantly delayed completion of the con-**
5 **struction and beneficial application of the right.**

6 “(5) Except as provided in subsection (6) of this section and ORS 537.409,
7 upon completion of beneficial use as required under this section, the holder
8 of a permit shall hire a water right examiner certified under ORS 537.798 to
9 survey the appropriation. Within one year after application of water to a
10 beneficial use or the beneficial use date allowed in the permit, the holder
11 shall submit a map of the survey as required by the Water Resources De-
12 partment, that shall accompany the request for a water right certificate
13 submitted to the department under ORS 537.250. If any property described in
14 the permit is not included in the request for a water right certificate, the
15 holder shall state the identity of the record owner of that property.

16 “(6) The Water Resources Director may waive the requirement under
17 subsection (5) of this section that a holder of a permit hire a water right
18 examiner certified under ORS 537.798 if:

19 “(a) The permit is a supplemental water right that shares the same dis-
20 tribution system and same place of use as the primary water right; and

21 “(b) The department determines that there is sufficient information in the
22 records of the department to determine proof of beneficial use.

23 “(7) Notwithstanding ORS 537.410, for purposes of obtaining a water right
24 certificate under ORS 537.250 for a supplemental water right, the holder of
25 a permit shall have a facility capable of handling the full rate and duty of
26 water requested from the supplemental source and be otherwise ready, will-
27 ing and able to use the amount of water requested, up to the amount of water
28 approved in the water right permit. To obtain a certificate for a supple-
29 mental water right, the holder is not required to have actually used water
30 from the supplemental source if:

1 “(a) Water was available from the source of the primary water right and
2 the primary water right was used pursuant to the terms of the primary water
3 right; or

4 “(b) The nonuse of water from the supplemental source occurred during
5 a period of time within which the exercise of the supplemental water right
6 permit was not necessary due to climatic conditions.

7 **“SECTION 26.** ORS 537.630 is amended to read:

8 “537.630. (1) As used in this section, ‘undeveloped portion’ means the dif-
9 ference between the maximum rate or duty specified in a water right permit
10 and the maximum rate or duty appropriated as of the later of:

11 “(a) June 29, 2005;

12 “(b) The time specified in the permit to perfect the water right; or

13 “(c) The time specified in the last-approved extension of time to perfect
14 the water right.

15 “(2) Except for the holder of a permit for municipal [*use*], **quasi-**
16 **municipal, group domestic or group domestic expanded uses**, the holder
17 of a permit issued pursuant to ORS 537.625 shall prosecute the construction
18 of a well or other means of developing and securing the ground water with
19 reasonable diligence and complete the construction within a reasonable time
20 fixed in the permit by the Water Resources Department, not to exceed [*five*]
21 **seven** years after the date of approval of the application. [*However, the de-*
22 *partment, for good cause shown, shall order and allow an extension of time,*
23 *including an extension beyond the five-year period, for the completion of the*
24 *well or other means of developing and securing the ground water or for com-*
25 *plete application of water to beneficial use. In determining the extension, the*
26 *department shall give due weight to the considerations described under ORS*
27 *539.010 (5) and to whether other governmental requirements relating to the*
28 *project have significantly delayed completion of construction or perfection of*
29 *the right.*]

30 “(3)(a) **The holder of a right for quasi-municipal, group domestic**

1 or group domestic expanded uses shall complete construction of pro-
2 posed works and apply water beneficially within seven years from the
3 date on which a permit for such uses is issued under ORS 537.211. The
4 construction must proceed with reasonable diligence and be completed
5 within the time specified in the permit, not to exceed seven years.

6 “(b) Notwithstanding paragraph (a) of this subsection, the depart-
7 ment may, for good cause shown, order and allow one extension of
8 time to complete construction and apply water beneficially, not ex-
9 ceeding:

10 “(A) Twenty years from the date that the extension is approved for
11 quasi-municipal use.

12 “(B) Ten years from the date the extension is approved for group
13 domestic use or group domestic expanded use.

14 “(c) In determining the extension under paragraph (b) of this sub-
15 section, the department shall give due weight to considerations in ORS
16 539.010 (5) and to whether other governmental requirements relating
17 to the project have significantly delayed completion of the con-
18 struction and beneficial application of the right.

19 “[3] (4) The holder of a permit for municipal use shall commence and
20 complete the construction of any proposed works within 20 years from the
21 date on which the permit for municipal use is issued under ORS 537.625. The
22 construction must proceed with reasonable diligence and be completed within
23 the time specified in the permit, not to exceed 20 years. However, the de-
24 partment may order and allow an extension of time to complete construction
25 or to perfect a water right beyond the time specified in the permit under the
26 following conditions:

27 “(a) The holder shows good cause. In determining the extension, the de-
28 partment shall give due weight to the considerations described under ORS
29 539.010 (5) and to whether other governmental requirements relating to the
30 project have significantly delayed completion of construction or perfection

1 of the right;

2 “(b) The extension of time is conditioned to require that the holder submit
3 and obtain department approval of a water management and conservation
4 plan;

5 “(c) The extension of time is conditioned to provide that the holder may
6 appropriate the undeveloped portion of the permit only upon approval by the
7 department of a water management and conservation plan; and

8 “(d) For the first extension issued after June 29, 2005, for a permit for
9 municipal use issued before November 2, 1998, the department finds that the
10 undeveloped portion of the permit is conditioned to maintain, in the portions
11 of waterways affected by water use under the permit, the persistence of fish
12 species listed as sensitive, threatened or endangered under state or federal
13 law. The department shall base its finding on existing data and upon the
14 advice of the State Department of Fish and Wildlife. An existing fish pro-
15 tection agreement between the permit holder and a state or federal agency
16 that includes conditions to maintain the persistence of any listed fish species
17 in the affected portion of the waterway is conclusive for purposes of the
18 finding.

19 “[~~(4)~~] (5) If the construction of any well or other means of developing and
20 securing the ground water is completed after the date of approval of the
21 application for a permit under ORS 537.625, within 30 days after the com-
22 pletion, or if the construction is completed before the date of approval,
23 within 30 days after the date of approval, the permit holder shall file a cer-
24 tificate of completion with the Water Resources Department, disclosing:

25 “(a) The depth to the water table;

26 “(b) The depth, diameter and type of each well, and the kind and amount
27 of the casing;

28 “(c) The capacity of the well pump in gallons per minute and the
29 drawdown thereof;

30 “(d) The identity of the record owner of any property that was described

1 in the application for a permit under ORS 537.625 but is not included in the
2 certificate of completion; and

3 “(e) Any other information the department considers necessary.

4 “[5] **(6)** Upon completion of beneficial use necessary to secure the
5 ground water as required under this section, the permit holder shall hire a
6 water right examiner certified under ORS 537.798 to survey the appropri-
7 ation. Within one year after applying the water to beneficial use or the
8 beneficial use date allowed in the permit, the permit holder shall submit the
9 survey as required by the Water Resources Department to the department
10 along with the certificate of completion required under subsection (4) of this
11 section. If any property described in the permit is not included in the request
12 for a water right certificate, the holder of the permit shall state the identity
13 of the record owner of that property.

14 “[6] **(7)** After the department has received a certificate of completion
15 and a copy of the survey as required by subsections [(4) and (5)] **(5) and (6)**
16 of this section that show, to the satisfaction of the department, that an ap-
17 propriation has been perfected in accordance with the provisions of ORS
18 537.505 to 537.795 and 537.992, except as provided in subsection [(7)] **(8)** of
19 this section, the department shall issue a ground water right certificate of
20 the same character as that described in ORS 537.700. The certificate shall
21 be recorded and transmitted to the applicant as provided in ORS 537.700.

22 “[7] **(8)** The department may not issue a water right certificate for mu-
23 nicipal use under this section if:

24 “(a) An extension of time is required; and

25 “(b) The order approving the extension of time has not become final by
26 operation of law or on appeal.

27 “(8) The procedure for cancellation of a permit shall be as provided in
28 ORS 537.260.

29 “(9) Notwithstanding ORS 537.410, for purposes of obtaining a water right
30 certificate under subsection [(6)] **(7)** of this section for a supplemental water

1 right, the holder of a permit shall have a facility capable of handling the full
2 rate and duty of water requested from the supplemental source and be oth-
3 erwise ready, willing and able to use the amount of water requested, up to
4 the amount of water approved in the water right permit. To obtain a certifi-
5 cate for a supplemental water right, the holder is not required to have ac-
6 tually used water from the supplemental source if:

7 “(a) Water was available from the source of the primary water right and
8 the primary water right was used pursuant to the terms of the primary water
9 right; or

10 “(b) The nonuse of water from the supplemental source occurred during
11 a period of time within which the exercise of the supplemental water right
12 permit was not necessary due to climatic conditions.

13 **“SECTION 27. (1) The amendments to ORS 537.230 and 537.630 by**
14 **sections 25 and 26 of this 2025 Act apply to:**

15 **“(a) Development timelines on new water right permits for which**
16 **the proposed final order for the water right permit application is is-**
17 **sued on or after the operative date specified in section 48 of this 2025**
18 **Act.**

19 **“(b) Extension applications submitted on or after the operative date**
20 **specified in section 48 of this 2025 Act for permits for quasi-municipal,**
21 **group domestic or group domestic expanded uses.**

22 **(2) Notwithstanding ORS 537.230 and 537.630, except for a holder of**
23 **a permit for municipal, quasi-municipal, group domestic or group do-**
24 **mestic expanded uses, the following applications for extensions on**
25 **permits will be processed under subsection (3) of this section:**

26 **“(a) Permits with extension applications pending under ORS 537.230**
27 **or 537.630 for which a proposed final order on the extension has not**
28 **been issued before the operative date specified in section 48 of this 2025**
29 **Act.**

30 **“(b) Permits with a proposed final order issued on a water right**

1 application before the operative date specified in section 48 of this 2025
2 Act if the extension application is submitted on or after the operative
3 date specified in section 48 of this 2025 Act.

4 “(3) The Water Resources Department shall, for good cause shown,
5 order and allow one extension of time for up to two years from the
6 date that an extension is approved if:

7 “(a) Fish-related conditions have been satisfied; and

8 “(b) A portion of the water quantity has been developed.

9

10 “PHASED FEE PAYMENT

11

12 “SECTION 28. Section 29 of this 2025 Act is added to and made a
13 part of ORS chapter 536.

14 “SECTION 29. (1) Notwithstanding ORS 536.050, for an application
15 under ORS 537.140, 537.150 or 537.615, the Water Resources Department
16 may charge:

17 “(a) A portion of the applicable examination fee for the application
18 at the time the application is submitted; and

19 “(b) The remaining portion of the applicable examination fee after
20 issuing an initial review of the application.

21 “(2) If the department charges a portion of an applicable examina-
22 tion fee as described in subsection (1)(a) of this section, upon issuing
23 an initial review described in subsection (1)(b) of this section:

24 “(a) The department shall notify the applicant of the remaining
25 portion of the applicable examination fee due; and

26 “(b) If the applicant wishes to continue with the application, the
27 applicant shall pay the remaining portion of the applicable examina-
28 tion fee not more than 90 days after issuance of the initial review.

29 “(3) Notwithstanding any contrary provision of law, if the applicant
30 does not pay the remaining portion of the applicable examination fee

1 as described in subsection (2)(b) of this section, the department shall
2 close the file for, and take no further action on, the application.

3
4 **“APPLICABILITY TO APPLICATIONS AND PETITIONS**

5
6 **“SECTION 30. Notwithstanding ORS 536.031 (1), sections 9, 24 and**
7 **29 of this 2025 Act, and rules adopted thereunder, and the amendments**
8 **to ORS 536.045, 537.145, 537.150, 537.211, 537.252, 537.470, 537.610, 537.620,**
9 **540.520, 540.535, 540.585, 543.220, by sections 2 to 7, 14, 17, 19 to 20, 37**
10 **and 42 of this 2025 Act, and rules adopted thereunder, apply to appli-**
11 **cations and petitions submitted on or after the operative date specified**
12 **in section 48 of this 2025 Act.**

13
14 **“AUTOMATIC FINAL ORDERS**

15
16 **“SECTION 31. (1) Notwithstanding ORS chapters 537, 540 or 541, a**
17 **proposed final order issued by the Water Resources Department under**
18 **ORS chapters 537, 540 or 541 for an application requesting that the**
19 **department approve a new water right or a change to an existing wa-**
20 **ter right or permit, registration or license, shall become, without fur-**
21 **ther department action, a final order as a matter of law 33 days after**
22 **the close of the time period for submitting a protest if:**

23 **“(a) The department includes a provision in the proposed final order**
24 **explaining that the proposed final order will become a final order un-**
25 **der this section;**

26 **“(b) A protest is not received by the department within the 33 days.**

27 **“(2) Notwithstanding subsection (1) of this section, the department**
28 **may withdraw a proposed final order for reconsideration and issuance**
29 **of a superseding proposed final order not more than 33 days after the**
30 **close of the time period for submitting a protest.**

1 **“REQUEST FOR STANDING STATEMENT**

2
3 **“SECTION 32.** ORS 537.153 is amended to read:

4 “537.153. (1) Within 60 days after the Water Resources Department pro-
5 ceeds with the application under ORS 537.150 (5)(c), the department shall
6 complete application review and issue a proposed final order approving or
7 denying the application or approving the application with modifications or
8 conditions. The department may request the applicant to provide additional
9 information needed to complete the review. If the department requests addi-
10 tional information, the request shall be specific and shall be sent to the ap-
11 plicant by registered mail. The department shall specify a date by which the
12 information must be returned, which shall be not less than 10 days after the
13 department mails the request to the applicant. If the department does not
14 receive the information or a request for a time extension under ORS 537.175
15 by the date specified in the request, the department may reject the applica-
16 tion and may refund fees in accordance with ORS 536.050 (4)(a). The time
17 period specified by the department in a request for additional information
18 shall allow the department to comply with the 60-day time limit established
19 by this subsection.

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

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

30 “(b) The proposed use will impair or be detrimental to the public interest

1 as demonstrated in comments, in a protest under subsection (6) of this sec-
2 tion or in a finding of the department that shows:

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

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

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

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

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

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

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

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

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

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

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

26 “(4) The department shall mail copies of the proposed final order to the
27 applicant and to persons who have requested copies and paid the fee required
28 under ORS 536.050 (1)(p). The department also shall publish notice of the
29 proposed final order by publication in the weekly **public** notice published
30 by the department.

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

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

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

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

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

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

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

17 “(f) The protest fee required under ORS 536.050.

18 “(7) [*Requests for standing and*] Protests on the proposed final order shall
19 be submitted within 45 days after publication of the notice of the proposed
20 final order in the weekly **public** notice published by the department. **If a**
21 **protest is submitted, any person may submit a request for standing**
22 **under subsection (5) of this section within 30 days after the deadline**
23 **for filing a protest.** Any person who asks to receive a copy of the
24 department’s final order shall submit to the department the fee required un-
25 der ORS 536.050 (1)(p), unless the person has previously requested copies and
26 paid the required fee under ORS 537.150 (7), the person is a protestant and
27 has paid the fee required under ORS 536.050 (1)(j) or the person has standing
28 and has paid the fee under ORS 536.050 (1)(n).

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

1 “(a) Issue a final order as provided under ORS 537.170 (6); or
2 “(b) Schedule a contested case hearing if a protest has been submitted and
3 if:

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

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

8 “**SECTION 33.** ORS 537.621 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)(c), the department shall
11 complete 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 paid the fee required
17 under ORS 536.050 (1)(p). The department also shall publish notice of the
18 proposed final order by publication in the weekly **public** notice published
19 by the department.

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

25 “(7) 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 state-
30 ment 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) The protest fee required under ORS 536.050.

7 “(8) [*Requests for standing and*] Protests on the proposed final order shall
8 be submitted within 45 days after publication of the notice of the proposed
9 final order in the weekly **public** notice published by the department. **If a**
10 **protest is submitted, any person may submit a request for standing**
11 **under subsection (6) of this section within 30 days after the deadline**
12 **for filing a protest.** Any person who asks to receive a copy of the
13 department’s final order shall submit to the department the fee required un-
14 der ORS 536.050 (1)(p), unless the person has previously requested copies and
15 paid the required fee under ORS 537.620 (7), the person is a protestant and
16 has paid the fee required under ORS 536.050 (1)(j) or the person has standing
17 and has paid the fee under ORS 536.050 (1)(n).

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

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

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

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

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

27 **“SECTION 33a. The amendments to ORS 537.153 and 537.621 by**
28 **sections 32 and 33 of this 2025 Act apply to requests for standing on**
29 **proposed final orders issued on or after the operative date specified in**
30 **section 48 of this 2025 Act.**

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

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

7 **“SECTION 35.** ORS 537.225 is amended to read:

8 “537.225. (1) Notwithstanding ORS 537.220 and 537.635, except as provided
9 in subsection (6) of this section, a record landowner holding a water right
10 permit for an irrigation, nursery, temperature control, stock watering or
11 agricultural water use that has a subsequent completion date may apply for
12 assignment of all or part of the water right permit and for the issuance of
13 a replacement water right permit that reflects that assignment. To obtain the
14 assignment and replacement water right permits, the applicant shall submit
15 an application to the Water Resources Department that includes, at a mini-
16 mum:

17 “(a) A map prepared by a certified water right examiner and meeting de-
18 partment mapping standards that identifies the authorized place of use, rate
19 of use, any applicable acre-feet allowances, tax lots and points of diversion
20 or appropriation;

21 “(b) A copy of the deed showing that the applicant is an owner of the
22 land;

23 “(c) An affidavit certifying that the water right has not been conveyed
24 or withheld;

25 “(d) A statement by the applicant that the most recent water use under
26 the permit, if any, has been exercised within relevant terms and conditions
27 of the permit; and

28 “(e)(A) Agreements to the assignment and to the request for the issuance
29 of replacement water right permits submitted jointly or individually by all
30 owners of the land to which the water right is appurtenant; or

1 “(B) An assignment of interest and request for the issuance of replace-
2 ment water right permits submitted by one or more of the owners of land to
3 which the water right is appurtenant and information identifying the names,
4 addresses and proportionate interests for those owners not submitting the
5 assignment and request.

6 “(2) In addition to the application contents described in subsection (1) of
7 this section, the department may require that the applicant provide any ad-
8 ditional information the department deems appropriate to determining
9 whether to approve the application.

10 “(3) Upon receiving an application under subsection (1) of this section,
11 the department shall determine and notify the applicant of the fees payable
12 under ORS 536.050 for processing the application. Upon receipt of the ap-
13 propriate processing fees, the department shall:

14 “(a) Verify the address of each owner of the lands identified on the map
15 contained in the application;

16 “(b) Verify that the deed supplied with the application matches the prop-
17 erty proposed for assignment;

18 “(c) Prepare a statement that the proposed replacement water right per-
19 mits will not result in the enlargement of the original water right, a pro-
20 posed final order and drafts of replacement water right permits;

21 “(d) No later than one week prior to the date of the weekly **public** notice
22 described in paragraph (e) of this subsection, mail copies of the application,
23 the map, the existing water right permit, the proposed final order and the
24 draft replacement water right permits to each owner of land to which the
25 existing water right is appurtenant; and

26 “(e) Provide public notice of the application in the weekly **public** notice
27 published by the department.

28 “(4) The department shall allow comment on the application for 30 days
29 following public notice of the application in the weekly notice published by
30 the department. Any protest against the proposed final order must be sub-

1 mitted no later than 45 days after the date of the weekly notice published
2 by the department. A protest must be filed in the manner provided in ORS
3 537.227.

4 “(5) If the department determines that an application under subsection (1)
5 of this section to assign all or part of a water right permit has been properly
6 filed, and that the issuance of replacement water right permits will not re-
7 sult in the enlargement of the original water right or otherwise cause injury
8 to other water right holders, the department shall issue one or more re-
9 placement water right permits to reflect the assignment. The replacement
10 water right permits:

11 “(a) Must have the same conditions as the replaced water right permit,
12 including but not limited to priority date, source of water and type of use;

13 “(b) May not add or change a point of diversion or point of appropriation;

14 “(c) May not result in the enlargement of the water use authorized under
15 the replaced water right permit;

16 “(d) Must apportion the rate, and if applicable the duty, in proportion to
17 the amount of land to which the water right is appurtenant; and

18 “(e) Must identify the land to which the replacement water right permit
19 is appurtenant and the owner of that land.

20 “(6) This section does not apply to municipal or quasi-municipal permits
21 or to permits held by a unit of local government, including but not limited
22 to permits held by a port or water authority or a district. As used in this
23 subsection, ‘unit of local government’ has the meaning given that term in
24 ORS 190.003 and ‘district’ has the meaning given that term in ORS 540.505.

25 **“SECTION 36.** ORS 537.348 is amended to read:

26 “537.348. (1) Any person may purchase or lease all or a portion of an ex-
27 isting water right or accept a gift of all or a portion of an existing water
28 right for conversion to an in-stream water right. Any water right converted
29 to an in-stream water right under this section shall retain the priority date
30 of the water right purchased, leased or received as a gift. At the request of

1 the person the Water Resources Commission shall issue a new certificate for
2 the in-stream water right showing the original priority date of the purchased,
3 gifted or leased water right. Except as provided in subsections (2) to (6) of
4 this section, a person who transfers a water right by purchase, lease or gift
5 under this subsection shall comply with the requirements for the transfer of
6 a water right under ORS 540.505 to 540.585.

7 “(2) Subject to subsections (3) to (6) of this section, any person who has
8 an existing water right may lease all or a portion of the existing water right
9 for use as an in-stream water right for a specified period without the loss
10 of the original priority date. During the term of the lease, the use of the
11 water right as an in-stream water right shall be considered a beneficial use.
12 The term of the lease may not exceed five years. The term of the lease may
13 be renewed. There is no limitation on the number of times that the lease
14 may be renewed.

15 “(3) A lease of all or a portion of an existing water right for use as an
16 in-stream water right under subsection (2) of this section may allow the split
17 use of the water between the existing water right and the in-stream water
18 right during the same calendar year, provided:

19 “(a) The uses of the existing water right and the in-stream water right
20 are not concurrent; and

21 “(b) The holders of the water rights measure and report to the Water
22 Resources Department the use of the existing water right and the in-stream
23 water right.

24 “(4) A person who has an existing water right and wishes to lease the
25 water right as described in subsection (2) of this section must file a request
26 and obtain department approval of the lease. Upon receipt of the request, the
27 department shall provide notice of the request by inclusion in the weekly
28 **public** notice published by the department. Any allegation of injury must be
29 delivered to the department no later than 21 days after publication of the
30 request in the weekly **public** notice.

1 “(5) After publishing notice of a request made under subsection (2) of this
2 section and allowing time for the delivery of allegations of injury, the de-
3 partment shall issue an order approving the request if the department finds
4 that the leasing of the water right for in-stream use can be effected without
5 injury to other existing water rights or can be conditioned to prevent injury
6 to other existing water rights. If the lease is for the split use of water be-
7 tween the existing water right and the in-stream water right during the same
8 calendar year, the conditions imposed in the order approving the request
9 must include, but need not be limited to, compliance with subsection (3) of
10 this section.

11 “(6) The department at any time may revoke or modify an order issued for
12 a lease under subsection (2) of this section if the department determines that
13 the use of the water right for in-stream use under the lease has resulted in
14 or may result in injury to an existing water right.

15 **“SECTION 37.** ORS 537.470 is amended to read:

16 “537.470. (1) Upon receipt of an application for allocation of conserved
17 water under ORS 537.465, the Water Resources Commission shall give notice
18 of receipt of the application in accordance with ORS 540.520 [(5)] **(6)(c)(B).**

19 “(2) The commission shall allocate conserved water as provided in sub-
20 section (3) of this section and approve modifications of water rights as pro-
21 vided in subsection (6) of this section. The commission may not allocate
22 conserved water pursuant to an application under ORS 537.465 if the appli-
23 cation is filed more than five years after the conservation measure was im-
24 plemented.

25 “(3) After determining the quantity of conserved water, if any, required
26 to mitigate the effects on other water rights, the commission shall allocate
27 25 percent of the remaining conserved water to the state and 75 percent to
28 the applicant, unless the applicant proposes a higher allocation to the state
29 or more than 25 percent of the funds used to finance the conservation
30 measures comes from federal or state public sources. If more than 25 percent

1 of the funds used to finance the conservation measures comes from federal
2 or state public sources and is not subject to repayment, the commission shall
3 allocate to the state a percentage equal to the percentage of public funds
4 used to finance the conservation measures and allocate to the applicant a
5 percentage equal to the percentage of other funds used to finance the con-
6 servation measures. If the commission determines that the water allocated
7 to the state is necessary to support in-stream flow purposes in accordance
8 with ORS 537.332 to 537.360, the water shall be converted to an in-stream
9 water right. If the water allocated to the state is not necessary to support
10 in-stream flow purposes, it shall revert to the public for appropriation by the
11 next user in priority. In no event, however, shall the applicant receive less
12 than 25 percent of the remaining conserved water unless the applicant pro-
13 poses a higher allocation to the state.

14 “(4) The commission shall notify the applicant and any other person re-
15 questing notice, of the action the commission intends to take under sub-
16 section (3) of this section. Any person objecting to the proposed allocation
17 may file a protest requesting a contested case hearing before the commission.

18 “(5) The modification of water rights under an allocation of conserved
19 water may not require a separate request for transfer under ORS 540.520.

20 “(6) After the commission completes the allocation of conserved water
21 under subsection (3) of this section, the commission shall issue orders for
22 proposed new certificates covering the changes in the original water rights.
23 Once the conservation project is completed, separate new certificates pre-
24 serving the previously established priority of rights shall be issued to cover
25 the unaffected portion of the water rights and separate new certificates in-
26 dicating the priority of rights as set forth in ORS 537.485 shall be issued to
27 cover the right to the use of the allocated water.

28 **“SECTION 38.** ORS 538.450 is amended to read:

29 “538.450. (1) Subject to water rights existing on March 8, 1941, there is
30 granted to the City of Pendleton, Umatilla County, and its water commis-

1 sion, the exclusive right to use for public or municipal purposes or use, or
2 for the general use and benefit of people within or without the city, all wa-
3 ters of the north fork of the Umatilla River, the springs at the head which
4 form the stream, and its tributaries to the confluence of the north fork with
5 the main stream of the Umatilla River in the northwest quarter of section
6 22, township 3 north of range 37 east of the Willamette Meridian, which
7 north fork is a tributary of the Umatilla River situated in Umatilla County.

8 “(2) The City of Pendleton, its water commission, any of the city’s agents,
9 agencies and officers, and others on its behalf, may appropriate all such
10 waters for these purposes and uses for the benefit and use of the city, as
11 above set forth, either by the city in its own name, or by any of its agents,
12 agencies or officers or by any other persons on its behalf.

13 “(3) No person shall appropriate or be granted a permit to the use of any
14 of such waters, except as provided in this section. But the City of Pendleton
15 may, under this grant, divert such waters from their watershed and convey
16 them to the city and elsewhere for use by it for public or municipal purposes
17 or use or for the general use and benefit of people within or without the city.
18 All of such waters are withdrawn from future appropriation, except for use
19 and benefit of the city as set forth in this section.

20 “(4) The point of diversion of a water right granted under this section
21 may be exercised at the main stem of the Umatilla River situated in Umatilla
22 County to a point not below the westerly city limit of the City of Pendleton.

23 “(5) Prior to exercising the right granted under this section, the City of
24 Pendleton shall submit to the Water Resources Department a notice of intent
25 to exercise the right. The notice of intent shall be made on a form prescribed
26 by the department and shall set forth:

27 “(a) The name and mailing address of the applicant;

28 “(b) The source of the water supply including the name and mailing ad-
29 dress of any owner of the land upon which the source of the water supply
30 is located;

- 1 “(c) The nature and the amount of the proposed use;
- 2 “(d) The time within which construction of the right is proposed to begin;
- 3 “(e) The time required to complete construction of the right;
- 4 “(f) The time required for the complete application of the water to the
- 5 proposed beneficial use;
- 6 “(g) The point of diversion of the exercise of the right; and
- 7 “(h) Any other information required by the department that is necessary
- 8 to understand the nature of the proposed project.

9 “(6) Prior to submitting a notice of intent pursuant to subsection (5) of

10 this section, the City of Pendleton shall hold a public meeting in the water

11 basin in which the right is located to discuss the proposed project and re-

12 ceive comments from the public.

13 “(7) Within 14 days after receiving a notice of intent submitted pursuant

14 to subsection (5) of this section, the department shall, in the weekly **public**

15 notice published by the department, give public notice of the submission of

16 the notice of intent.

17 “(8) The Confederated Tribes of the Umatilla Indian Reservation and the

18 City of Pendleton have entered into an agreement addressing the develop-

19 ment and use of the City of Pendleton’s water rights in the Umatilla River

20 and the impact on tribal interests from such development. The agreement

21 includes implementation of the minimum streamflow in the main stem of the

22 Umatilla River resulting from the exercise by the City of Pendleton of its

23 surface water right of the north fork of the Umatilla River under this sec-

24 tion. The City of Pendleton shall exercise such right consistent with the

25 agreement or successor agreements between the City of Pendleton and the

26 tribes provided in this subsection. In no event will the City of Pendleton

27 exercise the right granted under this section so as to reduce streamflows in

28 the Umatilla River to be less than state in-stream water rights for the

29 Umatilla River existing as of January 1, 2002.

30 “**SECTION 39.** ORS 540.524 is amended to read:

1 “540.524. (1) Notwithstanding ORS 540.510 or 540.670, upon approval of an
2 application submitted to the Water Resources Department, the holder of both
3 a primary water right originating from a surface water source and a sup-
4 plemental water right permit or certificate originating from a ground water
5 source may substitute the use of the supplemental water right for the pri-
6 mary water right. A substitution may not be made under this subsection if
7 the use of the supplemental water right results in an enlargement or expan-
8 sion of the primary water right. This subsection does not authorize a change
9 in place of use, type of use, point of diversion or point of appropriation.

10 “(2) An application required under subsection (1) of this section shall be
11 submitted on forms provided by the department. The department may request
12 additional information if necessary to assist with the injury evaluation. Each
13 application shall be submitted with the fee described in ORS 536.050 (1)(s).

14 “(3) Upon receiving an application under subsection (1) of this section,
15 the department shall provide notice, accept protests and conduct hearings
16 on protests in the manner described in ORS 540.520 [(5), (6) and (7)].

17 “(4) The Water Resources Director shall issue an order approving or deny-
18 ing the substitution. If the proposed substitution will result in injury to
19 other water rights, the director shall prohibit or condition the use to avoid
20 or mitigate the injury. The director shall issue an order approving or deny-
21 ing the substitution within 90 days after the department receives an appli-
22 cation under subsection (1) of this section.

23 “(5) For the purpose of ORS 540.610, a substituted primary surface water
24 right shall be treated as a supplemental water right, and a substituted sup-
25 plemental ground water right shall be treated as a primary water right.

26 “(6) A completed and approved substitution of a supplemental ground
27 water right for a primary surface water right under this section may be
28 terminated upon a request by the water right holder or by an order of the
29 director if the director determines that the use of the ground water as the
30 primary water right causes injury to other water rights. Upon termination,

1 the substituted primary and supplemental water rights shall revert back to
2 their original status.

3 **“SECTION 40.** ORS 540.570 is amended to read:

4 “540.570. (1) Provided that the proposed transfer complies with all of the
5 provisions of this subsection and will not result in injury to any existing
6 water right, a district with a manager may, for one irrigation season, tem-
7 porarily transfer the place of use of water appurtenant to any land within
8 the legal boundaries of the district to an equal acreage elsewhere within the
9 legal boundaries of that district or temporarily transfer the type of use
10 identified in a right to store water. A temporary transfer of the place of use
11 may occur if:

12 “(a) The rate and duty, and the total number of acres to which water will
13 be applied under the transfer, do not exceed existing limits on the water use
14 subject to transfer;

15 “(b) The type of use authorized under the water use subject to transfer
16 remains the same; and

17 “(c) The land from which the water use is being transferred does not re-
18 ceive any water under the right being transferred during the irrigation sea-
19 son in which the change is made.

20 “(2) Provided that the proposed transfer complies with all the provisions
21 of this subsection and will not result in injury to or enlargement of an ex-
22 isting water right, a district with a manager may, for one irrigation season,
23 temporarily change the point of diversion or appropriation combined with a
24 change in place of use, change the point of diversion in the event that an
25 emergency prevents the district from diverting water from its authorized
26 point of diversion, change the point of diversion to allow for the appropri-
27 ation of ground water or change a primary right to a supplemental right if:

28 “(a) The land on which the water is to be used is within the district’s
29 legal boundaries established pursuant to ORS chapter 545, 547, 552, 553 or
30 554;

1 “(b) The other terms of the permit or certificate remain the same, in-
2 cluding the beneficial use for which the water is used and the number of
3 acres to which water is applied;

4 “(c) The diversion is provided with a proper fish screen, if required by the
5 Water Resources Department; and

6 “(d) For a proposal to transfer the point of diversion to allow for the
7 appropriation of ground water, the proposed change meets the standards set
8 forth in ORS 540.531 (2).

9 “(3) When a district or an owner or an owner’s agent within a district
10 who is subject to the charges or assessments of the district wishes to use
11 water on alternate acreage within the district, if the district has approved
12 the owner’s request, the district shall submit to the department a petition
13 seeking a temporary transfer under this section. The district shall submit the
14 petition prior to making the proposed change. The petition may contain
15 changes to one or more tax lots within the district and shall:

16 “(a) Include the information required under ORS 540.574 (3);

17 “(b) Be accompanied by a map in a form satisfactory to the department
18 and certified by the district. If the water right is on a tract of land of five
19 acres or less, the assessor’s tax map with a notation of the acres of water
20 right shall be sufficient for identification of the tract and place of use;

21 “(c) Include a statement that a written authorization for the transfer from
22 each landowner affected by the particular temporary transfer is on file with
23 the district;

24 “(d) Include any other information required by rules of the Water Re-
25 sources Commission; and

26 “(e) Include a fee in the amount required under ORS 536.050 (1)(i).

27 “(4) The district shall notify each affected landowner that the department
28 may reject the transfer or may require mitigation to avoid injury to other
29 water rights. Upon receipt of a completed petition under subsection (3) of
30 this section, the department shall place a summary of the petition in the

1 weekly **public** notice published by the department. The department shall ac-
2 cept written public comments on the petition for 30 days following publica-
3 tion of the weekly **public** notice. The department shall consider comments
4 that pertain to the potential for injury to an existing water right or to the
5 enlargement of the water use subject to transfer in determining whether to
6 condition, reject or revoke a temporary transfer.

7 “(5) Use of water on lands from which the right is transferred and in the
8 new temporary location during the same irrigation season or calendar year
9 is prohibited and may subject the district and the landowner to civil penal-
10 ties.

11 “(6) The department may condition, reject or revoke a temporary transfer
12 at any time to the extent necessary to avoid injury if the department finds
13 the transfer is causing injury to an existing water right.

14 “(7) Upon expiration of the temporary transfer period, all uses of water
15 for which a temporary transfer is allowed under this section shall revert
16 automatically to the terms and conditions of the original water right permit,
17 certificate or adjudication under ORS chapter 539 as evidenced by a court
18 decree.

19 “(8) The time during which water is used under an approved temporary
20 transfer order does not apply toward a finding of forfeiture under ORS
21 540.610.

22 “**SECTION 41.** ORS 540.580 is amended to read:

23 “540.580. (1) In accordance with this section, a district may by petition
24 request that the Water Resources Department approve the permanent trans-
25 fer of the place of use of water within a district as long as the proposed
26 transfer complies with all of the following:

27 “(a) The rate, duty and total number of acres to which water is to be
28 applied under the water use subject to transfer are not exceeded;

29 “(b) The use authorized under the water use subject to transfer remains
30 the same;

1 “(c) The change in place of use will not result in injury to any existing
2 water right; and

3 “(d) The land from which the water right is removed by the transfer shall
4 receive no water under the transferred right.

5 “(2) A district may submit a petition for a permanent transfer prior to
6 or subsequent to the change in place of use, but no later than the end of the
7 calendar year in which the change occurs. The petition submitted by the
8 district may include an unlimited number of transfers within the same peti-
9 tion. A petition under this section shall:

10 “(a) Include the information required under ORS 540.574 (3), except for
11 the statement that a notice under ORS 540.572 (2) has been given;

12 “(b) Be accompanied by a map in a form satisfactory to the department
13 and certified by the district. If the water right is on a tract of land of five
14 acres or less, the assessor’s tax map with a notation of the acres of water
15 right shall be sufficient for identification of the tract and place of use;

16 “(c) Include a statement that each landowner affected by a permanent
17 transfer has authorized the transfer in a writing that is on file with the
18 district;

19 “(d) Include any other information required by rules of the Water Re-
20 sources Commission; and

21 “(e) Include the fee required under ORS 536.050 (1)(h) for a change in the
22 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 **public** no-
11 tice 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 **public** notice published by the department. Within 30 days after [*the*
19 *mailing*] **publication** of the department’s weekly **public** notice, any poten-
20 tially affected holder of an existing water right may file, jointly or severally,
21 with the department, a protest 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 42.** 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) Be accompanied by the appropriate fee for a change in the place of
23 use and type of use as set forth in ORS 536.050;

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

25 “(d) Include any other information the Water Resources Commission by
26 rule may require.

27 “(3)(a) Any portion of the use of a water right that is not temporarily
28 transferred under this section may be used on the designated part of the
29 lands described in the original water right permit, certificate or adjudication
30 under ORS chapter 539 as evidenced by a court decree, if the use does not

1 encompass more than the remaining portion of the lands, enlarge the water
2 right or increase the rate, duty, total acreage benefited or season of use.

3 “(b) The Water Resources Department shall designate the lands on which
4 water may be applied under this subsection and shall prescribe mapping,
5 measurement and recording requirements under this subsection.

6 “(4) Upon expiration of a temporary transfer period, all uses of water for
7 which a temporary transfer is allowed under this section shall revert auto-
8 matically to the terms and conditions of the original water right permit,
9 certificate or adjudication under ORS chapter 539 as evidenced by a court
10 decree.

11 “(5) The time during which water is used under an approved temporary
12 transfer order does not apply toward a finding of forfeiture under ORS
13 540.610.

14 “(6) The department may revoke a prior approval of a temporary transfer
15 at any time if:

16 “(a) The department finds that the transfer is causing injury to any ex-
17 isting water right; or

18 “(b) The person fails to comply with the requirements prescribed by the
19 department pursuant to subsection (3) of this section.

20 “[*(7) The department shall provide notice, in the manner provided in ORS*
21 *540.520 (5), that the department received an application for a temporary trans-*
22 *fer under this section.*]

23 “**(7) The department shall provide notice of the application in the**
24 **weekly public notice of the department and accept written public**
25 **comments for 30 days.**

26 “(8) The department may:

27 “(a) Prescribe the duration of the temporary transfer period allowed under
28 this section, up to 25 years;

29 “(b) Impose conditions in the terms of the temporary transfer, including
30 revocation of the transfer for noncompliance with applicable state, local or

1 federal laws; and

2 “(c) Determine the parties that may participate in the review of applica-
3 tions submitted under this section.

4 **“SECTION 43.** ORS 543A.035 is amended to read:

5 “543A.035. (1) Within 60 days after submitting a notice of intent under
6 ORS 543A.030, the applicant shall submit to the Water Resources Department
7 an application to reauthorize the water right for the state project on a form
8 prescribed by the department.

9 “(2) The reauthorization application for a water right for the use of water
10 for hydroelectric purposes shall set forth:

11 “(a) The name and post-office address of the applicant;

12 “(b) The location of the project by county and stream and, when appro-
13 priate, by city or nearby city;

14 “(c) The amount of water in cubic feet per second;

15 “(d) The theoretical water horsepower; and

16 “(e) Any other information required in the application form.

17 “(3) Upon receipt of a reauthorization application for the use of water for
18 hydroelectric purposes, the Water Resources Department shall convene the
19 Hydroelectric Application Review Team for the state project. The team shall
20 consist of representatives of the Water Resources Department, the Depart-
21 ment of Environmental Quality and the State Department of Fish and
22 Wildlife and may include a representative of any other state agency that has
23 regulatory or advisory responsibility for the state project or a resource or
24 hazard affected by the state project.

25 “(4) Within seven days after receiving a reauthorization application under
26 subsection (3) of this section, the department shall notify any person who
27 responded to the notice of intent and give public notice of the application
28 in the weekly **public** notice published by the department. The notice shall
29 include a request for comments on the application and information pertain-
30 ing to how an interested person may obtain future notices about the appli-

1 cation and participate in the reauthorization process.

2 “(5) Within 45 days after the public notice under subsection (4) of this
3 section, any person interested in the application shall request future notices
4 about the state project and may submit written comments to the department.

5 **“SECTION 44.** ORS 543A.040 is amended to read:

6 “543A.040. (1) Within 60 days after the close of the period allowed for
7 public comment under ORS 543A.035, the Hydroelectric Application Review
8 Team shall determine whether the reauthorization application for the water
9 right contains sufficient information to determine whether reauthorization
10 of the state project will comply with ORS 543A.025.

11 “(2) If the team decides that sufficient information is available to deter-
12 mine whether reauthorization of the water right for the state project will
13 comply with ORS 543A.025, the team shall proceed with expedited processing
14 of the reauthorization application. The team shall review the application and
15 any public comments received on the application and prepare a draft pro-
16 posed final order, including findings of fact and conclusions of law, for the
17 water right. Upon completion of the draft proposed final order, the team
18 shall give public notice of the draft proposed final order in the weekly **public**
19 notice published by the Water Resources Department. The notice shall in-
20 clude a request for comments on the draft proposed final order.

21 “(3) Within 60 days after the public notice under subsection (2) of this
22 section, any person interested in the draft proposed final order shall submit
23 written comments to the team. A person who submits written comments un-
24 der this subsection shall identify the provision of the draft proposed final
25 order in question and specify why the person objects to or supports the
26 provision. The team shall review the comments received and may revise the
27 draft proposed final order. Unless the department receives a request under
28 subsection (4) of this section, the team shall submit a proposed final order
29 to the department within 30 days after the close of the period for public
30 comment on the draft proposed final order.

1 “(4) If the draft proposed final order prepared by the team under sub-
2 section (2) of this section proposes to deny the application for reauthori-
3 zation of the water right, the applicant may request the department to
4 process the application in accordance with ORS 543A.045 to 543A.055. The
5 applicant shall submit a request under this subsection within the 60-day pe-
6 riod allowed for public comment on the draft proposed final order.

7 “(5) Unless the department receives a request under subsection (4) of this
8 section, the department shall issue the proposed final order in accordance
9 with the provisions of ORS 543A.120 to 543A.300.

10 “(6) If the team determines that additional information is necessary to
11 determine whether reauthorization of the state project will comply with ORS
12 543A.025, the applicant shall comply with the process established in ORS
13 543A.045 to 543A.055 and 543A.120 to 543A.300.

14 **“SECTION 45.** ORS 543A.055 is amended to read:

15 “543A.055. (1) The Hydroelectric Application Review Team shall review
16 the application report prepared under ORS 543A.050 and prepare a draft
17 proposed final order approving or denying the reauthorization of the water
18 right. The draft proposed final order shall include the findings required for
19 a proposed final order under ORS 543A.120. Upon completion of the draft
20 proposed final order, the Water Resources Department shall give public no-
21 tice of the draft proposed final order in the weekly **public** notice published
22 by the department. The notice shall include a request for comments on the
23 draft proposed final order.

24 “(2) Within 60 days after the public notice under subsection (1) of this
25 section, any person interested in the draft proposed final order shall submit
26 written comments to the team.

27 “(3) Within 30 days after the close of the period for public comment on
28 the draft proposed final order, the team shall make any revisions necessary
29 in response to comments received and submit a proposed final order to the
30 department.

1 “(4) The department shall complete the reauthorization process in ac-
2 cordance with the provisions of ORS 543A.120 to 543A.300.

3 **“SECTION 46.** ORS 543A.120 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 paid the fee required under ORS 536.050 (1)(p). The department

1 also shall give public notice of the proposed final order in the weekly **public**
2 notice published by the department.

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

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

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

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

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

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

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

18 “(f) The protest fee required under ORS 536.050 (1)(j).

19 “(6) Requests for standing and protests on the proposed final order shall
20 be submitted within 45 days after publication of the notice of the proposed
21 final order in the weekly **public** notice published by the department. Any
22 person who asks to receive a copy of the department’s final order shall sub-
23 mit to the department the fee required under ORS 536.050 (1)(p), unless the
24 person has previously requested copies and paid the required fee.

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

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

1 “(a) Issue a final order as provided under ORS 543A.130; or
2 “(b) Schedule a contested case hearing if a protest has been submitted and
3 if:
4 “(A) Upon review of the issues, the director finds that there are signif-
5 icant disputes related to the proposed reauthorization of the project; or
6 “(B) Within 30 days after the close of the period for submitting protests,
7 the applicant requests a contested case hearing.
8 “(9) At the request of the applicant, the department may extend the time
9 periods set forth in subsection (8) of this section for a reasonable period of
10 time.
11 “(10) If the application is for reauthorization of a water right for a
12 federally licensed project, the department may postpone the issuance of the
13 final order until the Federal Energy Regulatory Commission license is is-
14 sued.

15
16 **“CAPTIONS**

17
18 **“SECTION 47. The unit captions used in this 2025 Act are provided**
19 **only for the convenience of the reader and do not become part of the**
20 **statutory law of this state or express any legislative intent in the**
21 **enactment of this 2025 Act.**

22
23 **“OPERATIVE DATE**

24
25 **“SECTION 48. Sections 9, 13, 24, 29 and 31a of this 2025 Act and the**
26 **amendments to ORS 536.045, 536.410, 537.145, 537.147, 537.150, 537.153,**
27 **537.211, 537.225, 537.230, 537.252, 537.348, 537.409, 537.470, 537.610, 537.620,**
28 **537.621, 537.630, 538.450, 540.520, 540.524, 540.535, 540.570, 540.580, 540.585,**
29 **543.220, 543A.035, 543A.040, 543A.055 and 543A.120 by sections 2 to 7, 10,**
30 **14, 17 to 20, 25, 26, 32, 33 and 34 to 46 of this 2025 Act become operative**

1 on April 1, 2026.

2

3

“EARLY AGENCY ACTION

4

5 **“SECTION 49. The Water Resources Department and the Water**
6 **Resources Commission may take any action before the operative date**
7 **specified in section 48 of this 2025 Act that is necessary to enable the**
8 **department and the commission to exercise, on and after the operative**
9 **date specified in section 48 of this 2025 Act, all of the duties, functions**
10 **and powers conferred on the department and the commission by the**
11 **provisions of this 2025 Act.**

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13

“EFFECTIVE DATE

14

15 **“SECTION 50. This 2025 Act takes effect on the 91st day after the**
16 **date on which the 2025 regular session of the Eighty-third Legislative**
17 **Assembly adjourns sine die.”.**

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