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Rev. 10-1-87

CERTIFICATE AND ORDER
FOR FILING
PERMANENT
ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of PERMANENT rule(s) adopted on June 21, 1990
(Date)

the Water Resources Commission
(Department) Division)

become effective August 8, 1990
(Date)

The within matter having come before the Water Resources Commission
(Department) (Division) after

procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in Secretary of State's Bulletin: NO YES Date Published: April 15, 1990

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken: (List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

Proposed: OAR Chapter 690, Division 10-053, 054, 070, Division 15-057, Division 60
New Total Rules) Compliance with Statewide Planning Goals, Compatibility with Comprehensive
Plans, and Coordination on Land Use.

Amended: Title of OAR 690-76, Division 10-050, Division 11-010, 020, 030, 040, 080,
Existing Rules) Division 15-060, 080, Division 18-020, 040, 050, 070, 090 (see attached list)

Deleted: _____
Total Rules Only)

Administrative Rules of the Water Resources Department Resource Management Division
(Department) (Division)

DATED this 8th day of August, 19 90

By: William D. Young
(Authorized Signer)

Title: Director

Statutory Authority: ORS 197.180, 536.027 or

Chapter(s) _____, Oregon Laws 19 _____ or

House Bill(s) _____, 19 _____ Legislature, or Senate Bill(s) _____, 19 _____ Legislature

Subject Matter: These new and amended rules establish the Water Resources Department's State Agency Coordination Program pursuant to ORS 197.180. OAR Chapter 690, Division 60 established general procedures for achieving compliance with Statewide Planning Goals and Compatibility with acknowledged comprehensive plans. Amendments to several other rule divisions establish land use coordination procedures specific to individual Department programs affecting land use. In addition, amendments to Division 77 would establish a 20 year extendable term for water reservations and the by information submittal requirements. Amendments to Division 10 establish new processes for critical ground water area proceedings.

For Further Information Contact: Rick Bastasch or Roberta Jortner Phone: 378-3671
(Rule Coordinator)

Amended: OAR Chapter 690, Division 51-010, 060, 070, 100, 120, 260, Division 76,
010, 018, 020, 030, Division 77-010, 020, 025, 045, 075, 200, Division 82-020, 030,
040, 050, Division 90-010, 020, 025, Division 100,010, 020, 025.

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Adopted:
(New Total Rules) OAR Chapter 690, Division 10-053, 054, 070, Division 15-057, Division 60
Compliance with Statewide Planning Goals, Compatibility with Comprehensive
Plans, and Coordination on Land Use.

Amended:
(Existing Rules) OAR Chapter 690, Division 10-050, Division 11-010, 020, 030, 040, 080,
Division 15-060, 080, Division 18-020, 040, 050, 070, 090. (see attached
sheet)

Repealed:
(Total Rules Only)

is Administrative Rules of the Water Resources Department Resource Management Division
(Department) (Division)

DATED this 8th day of August, 19 90

By: William H. Young
(Authorized Signer)
Title: Director

Statutory Authority: ORS 197.180, 536.027 or

Chapter(s) _____, Oregon Laws 19 _____ or

House Bill(s) _____, 19 _____ Legislature; or Senate Bill(s) _____, 19 _____ Legislature

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procedures for achieving compliance with Statewide Planning Goals and Compatibility with
well-known comprehensive plans. Amendments to several other rule divisions establish land
use coordination procedures specific to individual Department programs affecting land use. In
addition, amendments to Division 77 would establish a 20 year extendable term for water reserva-
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NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken: (List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

Adopted: OAR Chapter 690, Division 10-053, 054, 070, Division 60 Compliance with
(New Total Rules) Statewide Planning Goals, Compatibility with Comprehensive Plans, and
Coordination on Land Use.

Amended: OAR Chapter 690, Division 10-050, Division 11-010, 030, 040, 080, Division
(Existing Rules) 15-057, 060, 080, Division 18-020, 040, 050, 070, 090. (see attached sheet)

Repealed:
(Total Rules Only)

as Administrative Rules of the Water Resources Department Resource Management Division
(Department) (Division)

DATED this 8th day of August, 19 90

By: William H. Young
(Authorized Signer)

Title: Director

Statutory Authority: ORS 197.180, 536.027 or

Chapter(s) _____, Oregon Laws 19 _____ or

House Bill(s) _____, 19 _____ Legislature; or Senate Bill(s) _____, 19 _____ Legislature

Subject Matter: These new and amended rules establish the Water Resource Department's State Agency Coordination Program pursuant to ORS 197.180. OAR Chapter 690, Division 60 established general procedures for achieving compliance with Statewide Planning Goals and Compatibility with acknowledged comprehensive plans. Amendments to several other rule divisions establish land use coordination procedures specific to individual Department programs affecting land use. In addition, amendments to Division 77 would establish a 20 year extendable term for water reservations and specify information submittal requirements. Amendments to Division 10 establish new processes for critical ground water area proceedings.

For Further Information Contact: Rick Bastasch and Roberta Jortner Phone: 378-3671
(Rule Coordinator)



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by the Water Resources Commission (Department) (Division)

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The within matter having come before the Water Resources Commission (Department) (Division) after

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in Secretary of State's Bulletin: NO YES Date Published: April 15, 1990

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken: (List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

Adopted: OAR Chapter 690, Division 60, Compliance with Statewide Planning Goals, Compatibility with Comprehensive Plans, and Coordination on Land Use Matters.
(New Total Rules)

Amended: OAR Chapter 690, Division 10-050, 053, 054, 070, Division 11-010, 030, 040, 080. Division 15-057, 060, 080. Division 18-020, 040, 050, 070, 090.
(Existing Rules)
(see attached page)

Repealed: _____
(Total Rules Only)

as Administrative Rules of the Water Resources Department (Department) Resource Management Division (Division)

DATED this 8th day of August, 1990

By: John C. Borden (Authorized Signer)

Title: Deputy Director

Statutory Authority: ORS 197.180, 536.027 or

Chapter(s) _____, Oregon Laws 19____ or

House Bill(s) _____, 19____ Legislature; or Senate Bill(s) _____, 19____ Legislature

Subject Matter: These new and amended rules establish the Water Resources Department's State Agency Coordination Program pursuant to ORS 197.180. OAR Chapter 690, Division 60 establishes general procedures for achieving compliance with Statewide Planning Goals and Compatibility with acknowledged comprehensive plans. Amendments to several other rule divisions establish land use coordination procedures specific to individual Department programs affecting land use. In addition, amendments to Division 77 would establish a 20 year extendable term for water reservations and specify information submittal requirements. Amendments to Division 10 establish new processes for critical ground water area proceedings.

For Further Information Contact: Rick Bastasch and Roberta Jortner (Rule Coordinator) Phone: 378-3671

OREGON ADMINISTRATIVE RULES

CHAPTER 690, DIVISION 51

APPROPRIATION AND USE OF WATER FOR HYDROELECTRIC
POWER AND STANDARDS FOR
HYDROELECTRIC APPLICATIONS

Purpose

690-51-000 These rules establish definitions, information requirements, filing procedures, hearing requirements, fees, and standards for hydroelectric development. The Water Resources Commission shall use these rules to process applications for permits to appropriate water for hydroelectric projects, preliminary permits and hydroelectric licenses under ORS Chapters 537 and 543.

Definitions

690-51-010 Terms used in ORS 537.170, 543.015, 543.017, 543.220, 543.225 543.255, 543.257 and in these rules are given the following meanings:

(1) "Affected local government" means any local government, as defined in OAR 690-60-015, within whose jurisdiction the use of water for hydroelectric purposes, or the construction of all or part of proposed or existing project facilities would be located.

(2) "Anadromous salmon and steelhead" means an individual fish, or a run, stock, or population of any species of salmon or any steelhead trout that:

- (a) Is naturally or hatchery spawned in freshwater;
- (b) Spends a portion of its life in the ocean; and
- (c) Returns to freshwater to spawn.

(3) "Approved Project" means a permit application filed under ORS 537 or a preliminary permit or license application filed under ORS 543 which has been approved by the Water Resources Commission.

(4) "Available Water" means water not subject to statutory limits on use and which would not interfere with amounts needed for existing water permits, rights and minimum perennial streamflows. Available water shall be based on stream gage records or, if stream gage records are not available, flow estimates using generally accepted methods of hydrologic analysis.

(5) "Commission" means Water Resources Commission.

(6) "Compensate" means to recover, replace, or substitute for loss from unavoidable or unforeseen adverse impacts of an action.

(7) "Cumulative Impact" means the collective effect resulting from incremental actions of past, present, or pending projects, developments or facilities.

(8) "Director" means the Water Resources Director.

(9) "Enhance" means to improve natural resource conditions over pre-project levels.

(10) "Existing Facility" means any permanent physical structure

for the diversion, conveyance, control, or use of water, whether or not in current use.

(11) "Improve" means to enhance.

(12) "License" means a hydroelectric license issued to nonmunicipal applicants as provided in ORS Chapter 543.210 - 543.320.

(13) "Maximum Economic Development" means achievement of the greatest net practical economic gain to the people of the state.

(14) "Minimum Perennial Streamflow," also minimum streamflow, means an administrative rule established to support aquatic life or minimize pollution. The rule includes a priority date and specifies streamflow levels for all or any period of the year. It establishes priority for instream use over future appropriations and identifies flow objectives for future management in streams where shortages occur.

(15) "Mitigation" means taking action or measures that avoid, minimize, rectify, reduce or compensate for impact.

(16) "Modify" means to alter the appearance, character, structure, function or operation of an existing facility.

(17) "Net Loss" means that the magnitude, quality or type of natural resource lost, exceeds the magnitude, quality or type of natural resource provided by mitigation, restoration or enhancement.

(18) "Permit" means a permit to appropriate water for hydroelectric development issued to municipal corporations as provided in ORS Chapter 537.

(19) "Preliminary Permit" means a preliminary permit issued to nonmunicipal hydroelectric applicants as provided in ORS Chapter 543.210 - 543.320.

(20) "Project" means any hydroelectric power project as defined in ORS 543.010.

(21) "Project Facilities" means all parts of the project necessary for or related to power generation. Project facilities shall include, dams, diversion structures, reservoirs, forebays, conveyance structures, penstocks, turbines, tailraces, navigation locks, fish ladders, fish screens, recreation facilities, tunnels, transmission lines, substations, buildings, structures and other such works necessary or related to the project.

(22) "Project Vicinity" means:

(a) All lands and waters required for project facilities; and

(b) All lands and waters which project construction or operation could reasonably be expected to affect.

(23) "Proposed Project" means a project for which an application has been received but not acted on by the Commission.

(24) "Public Facilities" means private and public lands and structures that provide for transportation, power, communication, water supply, waste treatment, drainage, flood control, recreation and community services to meet public needs for health, safety and welfare.

(25) "Public Utility" means a utility regulated by the Public Utility Commissioner, under ORS Chapter 757, that provides electric power to consumers.

(26) "Restoration" means to return the condition of a natural resource to its pre-project state.

(27) "River Basin" means:

(a) A subbasin designated by the Commission; or

(b) A major river drainage not otherwise divided by the Commission.

(28) "Significant" means having importance in terms of the context and intensity of an action and its result.

(29) "THP" means theoretical horsepower.

(30) "Wasteful, Uneconomic, Impracticable or Unreasonable" as used in ORS 537.170 and 543.225 shall have the following meanings:

(a) A use of water in greater quantities or at greater rates than necessary to achieve proposed project purposes;

(b) A use of water for which quantifiable public and private economic costs exceed quantifiable public and private economic benefits over the life of the project as demonstrated in the record;

(c) A use of water which could not reasonably be developed with the available means or methods;

(d) A use of water which would preclude present beneficial uses or other uses with a reasonable expectation of being developed during the proposed life of the project, which have a greater value to the public.

(31) "Water-Dependent Recreational Opportunity" means a recreational opportunity that can occur only on or in water, such as swimming, boating, water skiing, and fishing.

(32) "Water-Dependent Recreational Opportunity of Statewide Significance" means a recreation opportunity that, combined with natural qualities of the water resource involved, has exceptional value. Factors that may contribute to statewide significance include special designation, high demand, uniqueness, outstanding or unusual natural surroundings, irreplaceable qualities or relatively limited availability. Recreation opportunities readily available on other waters shall not be considered of statewide significance.

(33) "Wild Game Fish" means any fish, run, stock or population of fish belonging to a family of fish listed in ORS 496.009 and which is sustained through natural reproduction.

Projects to Be Considered by the Commission

690-51-020 (1) The Commission shall consider projects for which rights are initiated by the filing of applications for permits to appropriate surface water for hydroelectric purposes under ORS 537.140 and applications for preliminary permits or licenses under ORS 543.010 to 543.620.

(2) Projects shall be further classified as minor and major projects. For the purpose of these rules, a minor project shall be any project proposing to develop 100 THP or less. All others shall be major projects.

(3) Except as provided by Oregon Laws, (OL), 1985, Chapter 569, Section 27, these rules shall apply to any application for which the hearing record was not closed prior to the effective date of these rules. Projects to which OL, 1985, CH 569 do not apply, shall be subject to the provisions of OAR Chapter 690, Divisions 50 and 74.

Restriction on Filing

690-51-030 (1) No application shall be accepted by the Commissioner or Water Resources Department for a project in any of the following designated resource areas:

- (a) National parks;
- (b) National monuments;
- (c) Wilderness areas established by federal law;
- (d) Bureau of Land Management areas of critical environmental concern established under federal law;
- (e) Wild and scenic rivers established by federal law;
- (f) Estuarine sanctuaries established under PL 92-583;
- (g) Federal research natural areas established under federal regulation;
- (h) State parks and waysides;
- (i) Scenic waterways designated under ORS Chapter 390;
- (j) State wildlife refuges; or
- (k) State dedicated natural heritage areas established under ORS Chapter 273;

(2) An application is exempt from the restrictions of subsection (1), provided:

- (a) The application was filed prior to April 9, 1980;
- (b) The application was filed under ORS Chapter 537; and
- (c) The applicant has a valid lease from the agency managing the designated resource area.

Preliminary Permit Not Required

690-51-040 (1) Licenses may be issued without a preliminary permit having been issued in cases where the Commission deems a preliminary permit unnecessary. However, no preliminary permit or license for development of 1000 THP, or more, shall be granted within six months of filing the application.

(2) A preliminary permit is unnecessary where:

- (a) The project is a minor project; or
- (b) The project is a major project and the application addresses all applicable rules.

Applications: Filing Procedure

690-51-050 (1) All applications to use water for hydroelectric purposes shall be filed with the Commission at Salem, Oregon. Applications shall be submitted on forms prepared by the Commission. If the form is inadequate because insufficient space is provided for the necessary data, the application may be typewritten so that the paragraphs and headings correspond with the printed application forms. All applications shall be accompanied by the documents specified in OAR 690-51-070, or OAR 690-51-100 through 110, whichever is applicable, and shall be dated and designated as "Exhibit A," "Exhibit B," etc.

(2) If the information required by these rules has been filed with the Federal Energy Regulatory Commission (FERC), the FERC application or selected exhibits may be submitted to meet these requirements. If a FERC application is substituted, an index cross

referencing the Commission's exhibits to specific pages in the FERC application shall also be submitted. Substitution of an FERC application must be for the equivalent state application.

(3) If information required by these rules does not apply to the proposed project, it shall be noted on the application with a brief statement why the information does not apply.

(4) Information required to file an application is listed in the rules referenced in section (1) of this rule. At any time, the Commission may require additional information from the applicant.

(5) Applications filed before October 1, 1985, and on which no hearing has been held, shall meet all the filing requirements in these rules. Applicants shall be required to comply with these rules and will have 120 days from the date of notice to provide additional information. Failure to supply the required information may result in rejection of the application as incomplete. If more time is needed, a request must be made before the 120 days expires. Requests filed timely and showing good cause will be granted.

Consultation

690-51-060 All applicants shall consult with appropriate public and private agencies. Consultation shall occur before an application is filed. Evidence of the consultation shall be filed with the application. At a minimum, applicants shall consult the agencies under each heading listed below:

- (1) Fish and Wildlife Resources:
 - (a) Oregon Department of Fish and Wildlife (ODFW);
 - (b) U.S. Fish and Wildlife Service, (USF&WS);
 - (c) National Marine Fisheries Service (NMFS);
 - (d) Appropriate Indian Tribe(s) identified by the Legislative Commission on Indian Services; and
 - (e) Northwest Power Planning Council (NPPC), if the proposed project is within the Columbia Basin.
- (2) Water Quality: Department of Environmental Quality (DEQ).
- (3) Historic, Cultural and Archaeological Resources:
 - (a) State Historic Preservation Officer (SHPO); and
 - (b) Appropriate Indian Tribe(s) identified by the Legislative Commission on Indian Services.
- (4) Forestlands:
 - (a) U.S. Forest Service;
 - (b) Bureau of Land Management; and
 - (c) State Forestry Department.
- (5) Wetlands:
 - (a) Division of State Lands (DSL); and
 - (b) Oregon Natural Heritage Data Base (The Nature Conservancy).
- (6) Scenic - Aesthetic Resources:
 - (a) Planning department of each affected local government;
 - (b) DEQ (re noise standards);
 - (c) Federal managing agency, if public land; and
 - (d) Oregon Parks and Recreation Division.
- (7) Recreation Resources:
 - (a) Oregon Parks and Recreation Division;

- (b) Federal managing agency, if public land; and
- (c) Planning department of each affected local government.
- (8) Land Use and Access:
 - (a) Planning department of each affected local government;
 - (b) Appropriate state land management agencies;
 - (c) Federal managing agency, if public land; and
 - (d) Landowner(s), if private land.
- (9) Threatened and Endangered Species:
 - (a) ODFW;
 - (b) USF&WS;
 - (c) NMFS; and
 - (d) Oregon Natural Heritage Data Base (The Nature Conservancy).
- (10) Natural Communities & Geological Features: Oregon Natural Heritage Data Base (The Nature Conservancy).

Applications for Preliminary Permits: Contents and Scope of Evaluation

690-51-070 All applications for preliminary permits shall include information described in this rule. The applicant shall supply the information in sufficient detail to evaluate the potential for cumulative impacts with other proposed, approved and existing projects in the river basin. Information shall also be sufficient to identify interests, issues and areas of concern that require detailed assessment in the application for a license for hydroelectric development. An application shall be deemed incomplete and shall not be accepted for filing if it lacks any of the following required information.

- (1) The name and address of the applicant.
- (2) The following information shall be furnished as separate documents and designated as lettered exhibits:
 - (a) If the applicant is a corporation, it shall give the date and place of incorporation with the full name and official designation of each of the principal officers and of the directors of said corporation with their respective addresses and, in case of a foreign corporation, the name and address of the resident attorney-in-fact in this state.
 - (b) If the applicant is an association of citizens, each member shall make an affidavit of citizenship and the association shall submit its articles of association. If there be no articles of association, the fact shall be stated over the signature of each member.
 - (c) If the applicant is an individual, an affidavit shall be submitted that the applicant is a citizen of the United States.
- (3) A description of the location of the project, giving the county or counties within which located and stream or streams from which water is to be appropriated.
- (4) The quantity of water to be appropriated.
- (5) If a reservoir is to be used in connection with the project, the application shall state the quantity of water to be stored, the maximum surface area in acres, the name of the stream(s) on which the reservoir is to be located or the name of the stream(s) from which the stored water is to be collected or both.
- (6) The head to be utilized and the number of THP to be developed. The number of THP shall be determined by multiplying the

quantity of water to be diverted in cubic feet per second by the vertical head in feet and dividing the result by 8.8.

(7) The approximate location of the point(s) of diversion and the quantity of water to be taken at each point.

(8) The approximate length of the proposed canal, pipeline or other conduit, the approximate location of the proposed power plant and the point where water will be returned to some natural stream.

(9) The approximate height of diversion or storage dams and the material from which they will be constructed.

(10) A map showing the general location of the project including all dams, reservoirs, canals, pipelines, forebays, power plants, and streams, and the location of such data shall be given with respect to township and section lines. If on unsurveyed land, the location shall be with respect to projections of township and section lines.

(11) All maps and drawings shall be on good-quality tracing material not smaller than 11 by 17 inches nor larger than 24 by 36 inches and shall be rolled, not folded, for mailing.

(12) Each tracing shall be certified or approved by a registered professional engineer or professional land surveyor of Oregon.

(13) A statement describing the proposed use or market for the power to be developed.

(14) A statement giving the location and capacity of all power projects owned or operated by the applicant, the markets supplied thereby, and their relation to the proposed project.

(15) Identification of titles, rights-of-way, easements and conditional or special use permits needed for investigation of the proposed project.

(16) The estimated project life and proposed method of removal.

(17) A description of any naturally occurring hazard conditions, such as flooding or ice formation, which may affect project facilities or operations.

(18) A description of the availability of water and the effects of proposed operations on streamflow.

(19) A description of water quality and adopted water quality standards.

(20) A description of the principal fish life and wildlife species present.

(21) A description of principal recreation, scenic or aesthetic values.

(22) A description of public and private land ownership and public facilities.

(23) A discussion of land uses in the project area and the general compatibility of the proposed project with land use policies, provisions, and maps included in the acknowledged comprehensive plans of each affected local government. The applicant shall submit land use information, or a receipt signed and dated by a local government official as evidence that the request for land use information was received by the local planning department. If land use information is not postmarked, or received by the Department, within 60 days of request, as evidenced by a receipt, the Department shall conclude that the requirement for obtaining land use information has been met and may proceed with processing the permit.

(24) A description of special management areas as defined in OAR 690-51-170(2).

(25) A description of historic, cultural, and archaeological resources in the project vicinity.

(26) A description of other social or environmental resources or resource uses of special value to the public which could be affected by the project.

(27) A description of proposed mitigation, compensation or enhancement measures.

(28) A description of project economics including:

(a) Total estimated project costs;

(b) Estimated cost of power production per kilowatt hour;

(c) The applicant's intended method of financing for the construction, operation and retirement of the project;

(d) Proposed use or market for power produced by the project; and

(e) Need for power produced by the project.

(29) The locations of all other existing, approved or proposed hydroelectric projects in the same river basin as the proposed project. (Note: This information is available from the Water Resources Department (WRD). Only projects of record at the time an application is filed need to be addressed.)

(30) A technical evaluation of the potential for cumulative impacts on the natural resources listed in OAR 690-51-190 through 690-51-250 resulting from the proposed project when considered with other existing, approved and proposed hydroelectric projects in the river basin.

(31) The length of time for which a preliminary permit is desired. A preliminary permit may be issued for a period not exceeding two years. This period may be extended by order of the Commission. An extension may not exceed one year.

(32) The names and addresses of all property owners, as can reasonably be determined from records in the office of the County Assessor, whose land is:

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

(b) Borders or is within the project vicinity.

Application of Standards to Preliminary Permits

690-51-080 The purpose of issuing a preliminary permit is set forth in ORS 543.240. Preliminary permit applications will be approved unless the Commission finds the proposed project would not be in the public interest because of significant adverse impacts on natural resources or other uses of the water involved. Information in the application and hearing record will be used to assess the public interest and to form conditions to be included in the Commission's order on the application. Approval of a preliminary permit application shall not convey the right to construct any project facilities. Issuance of a preliminary permit shall not constitute approval or assurance of approval for any subsequent application for hydroelectric license for the project. Failure to comply with conditions in the approval order may result in the cancellation of the preliminary

permit.

Applications for Minor Projects: Contents, Scope of Evaluation and Application of Standards

690-51-090(1) Under ORS 543.300(7), the Commission may waive any or all requisite filings, hearings and approvals for a minor license. The term of a license and annual fees cannot be waived. The Commission's waiver authority is delegated to the Water Resources Director.

(2) An application shall be filed for each minor license. Contents of the application shall be prescribed by the Director. No application shall be filed for a project in a designated resource area described in OAR 690-51-030.

(3) A public hearing shall be held only if the Commission deems it in the public interest to do so. The Commission may limit the scope of the hearing to specific issues.

(4) Any minor project that would violate the standards in OAR 690-51-190 through 690-51-260 shall be rejected.

(5) The intent of this rule is to reduce the expense of licensing for owner-consumers of power from minor projects.

Application for Major License or Permit: Contents, Scope of Evaluation

690-51-100(1) An initial statement shall be filed with the application explaining if the applicant is an individual, corporation, municipality, etc.; the applicant's authority to file the application; and the applicant's authority, under the laws of the State of Oregon, to develop and market hydroelectric power. The initial statement must be supported by the following:

(a) A copy of articles of incorporation or other organization papers certified by the secretary of the applicant corporation or other organization and, if a corporation, bearing the corporate seal thereof, or certified by the Corporation Commissioner of the State of Oregon or by the county clerk of a county in which said articles are filed. If the applicant is an individual, or an association of individuals, an affidavit of citizenship from each individual is required. If the applicant is a municipal corporation, evidence that the applicant qualifies as a municipal corporation under the laws of the State of Oregon is required.

(b) A copy of all minutes, resolutions of stockholders or directors, or other representatives of the applicant, properly attested, authorizing the filing of the application.

(c) Evidence that the applicant has complied with the requirements of the laws of the State of Oregon with respect to the right to engage in the business of developing, transmitting, and distributing power, and in any other business necessary to effect the purposes of the license. This evidence shall be accompanied by a statement of the steps that have been taken and the steps that remain to be taken to acquire franchise or other rights from states, counties, and municipalities before the project or projects can be completed and put in operation.

(2) Applications for permits or licenses shall include information as further described in this section. Information shall be in sufficient detail to evaluate the potential for cumulative impacts with other existing, approved and proposed projects in the basin and to allow the Commission to make sufficient findings of fact on all applicable standards. An application shall be deemed incomplete and shall not be accepted for filing if it lacks any of the following required information:

(a) Exhibit A. An accurate description of the project, including the location of all dams, reservoirs, canals, pipelines, forebays, penstocks, and all other project facilities. The location of all reservoirs should be given in reference to some corner of the Government Survey, giving the quantity of water to be stored in each, the maximum surface area in acres, and a general statement describing the method of release of stored water to accomplish the purposes of the appropriation. This exhibit shall also include a statement with details on the applicant's plans for acquiring title to or the right to occupy and use lands other than those owned by the applicant, or by the United States, essential for carrying out the project or projects covered by the application. If the applicant owns all or part of the project lands, evidence of ownership shall be provided. If the applicant has, by easement, lease, franchise, or otherwise, acquired the right to occupy and use the lands owned by others, the statement should show, with respect to each separate right of occupancy and use:

- (A) From whom acquired;
- (B) The date acquired;
- (C) The nature and extent of the right acquired;
- (D) Whether perpetual or of limited term; and
- (E) If of limited term, when the term expires.

(b) Exhibit B. A statement of the nature and extent of the proposed appropriation of water, the available water supply and how it will be used, the head to be used and the number of THP to be developed. This statement should include a description of each diversion point and quantity of water to be diverted at each point. The description shall give reference to a Government Land Office (GLO) survey corner. If the project is located on unsurveyed public lands, reference shall be made to natural monuments from which a GLO corner can be definitely determined. In addition to the normal amount of water to be diverted, a statement of the proposed operation of the project facilities during times of low, normal, and flood flows of the stream. This statement shall include a description of when, where and how the power is to be sold. An estimate of the dependable power capacity and average annual energy output to be generated by the project shall be submitted, accompanied by the data upon which the estimate is based, and including the correlation of this project output with other generation facilities owned or controlled by the applicant.

(c) Exhibit C.

(A) A detailed construction schedule, including estimated dates of beginning and completion of:

- (i) Site access and preparation;
- (ii) Individual project facilities;

- (iii) All in-water work related to specific project facilities;
- and
- (iv) All proposed compensation, enhancement, and mitigation measures.
- (B) Project operation schedule.
 - (C) Project maintenance schedule.
 - (D) If the ultimate development is to be completed and put into operation in two or more phases, the time desired for beginning and completing construction of each phase and the specific work to be performed under each phase shall be given.
- (d) Exhibit D. An economic analysis of the project including:
 - (A) An estimate of the cost of developing each project feature, showing specific tasks, materials, quantities, and unit costs, in sufficient detail to determine all elements of project costs.
 - (B) An estimate of the annual costs, including the following:
 - (i) Cost of debt service;
 - (ii) Local, state, and federal taxes;
 - (iii) Depreciation;
 - (iv) Insurance;
 - (v) Operation and maintenance;
 - (vi) General or administrative expenses; and
 - (vii) Per kilowatt hour cost of average annual output expressed in cents or mills.
 - (C) An estimate of project revenues including:
 - (i) Gross annual income;
 - (ii) Percentage return on investment;
 - (iii) Net annual income;
 - (iv) State and Federal tax credits; and
 - (v) Net operating income over the usable life of the project.
 - (D) Source(s) of financing for the proposed project including:
 - (i) Identity of each source; and
 - (ii) Amount and terms of financing from each source.
 - (E) Market for the power including:
 - (i) Purchaser of the project output;
 - (ii) Length of power purchase agreement and initial power delivery date; and
 - (iii) Purchase price of power expressed in cents or mills per kilowatt hour.
 - (F) An analysis of the need for power with a description why the need can't be met by more cost effective conservation or generation.
 - (G) When required by the Commission, information on the method used in evaluating the power output from the project or the cost of obtaining an equivalent amount of power from an alternate source expressed in terms of dollars per kilowatt year of capacity and mills per kilowatt hour of average annual energy.
 - (H) For multipurpose projects, the economic relationship between hydropower and other project purposes.
 - (I) An estimate of usable project life, including a planned method of project retirement and method of financing the retirement.
 - (J) Statement showing the financial ability of the applicant to carry out the project or projects.
 - (e) Exhibit E. A discussion of environmental and social

considerations in the project vicinity including a description of:

(A) Topographic, geologic and soil stability factors related to project construction and operation which may adversely affect land and water use;

(B) Flood plains;

(C) Climatological factors, such as flooding and ice formation, which may pose hazards to project construction or operation;

(D) Spoil and borrow areas;

(E) Sources of water, maximum quantity diverted or used from each source, schedule of diversions, and available water based on annual flow-duration frequencies and monthly occurrence statistics;

(F) Existing water use in the project vicinity;

(G) Effects of proposed water diversion, project operations and/or storage on streamflow;

(H) Project effects on aquatic life, fish life and wildlife, including provisions for mitigating potential adverse impacts;

(I) Consistency of the project with state and federal fish and wildlife programs;

(J) Project effects on recreation, including provisions for mitigation;

(K) Project effects during construction and operation on water quality, including measures for protecting, maintaining and enhancing water quality;

(L) Project effects on scenic and aesthetic resources, including measures for mitigation;

(M) Adverse or beneficial project effects on other beneficial uses of water;

(N) Ownership of project lands;

(O) Compatibility of the project with present and planned uses of all project vicinity lands based on comprehensive land use plans and land use regulations of affected jurisdictions and federal land management policies or programs. The applicant shall submit land use information, or a receipt signed and dated by a local government official as evidence that the request for land use information was received by the local planning department. If land use information is not postmarked, or received by the Department, within 60 days of request, as evidenced by a receipt, the Department shall conclude that the requirement for obtaining land use information has been met and may proceed with processing the permit.

(P) Provisions for protection of special management areas as defined in OAR 690-51-170(2) or areas otherwise restricted from development within the project vicinity;

(Q) Project effects on public facilities including provisions for mitigating adverse effects;

(R) Provisions for identifying, preserving, and protecting known historical, cultural and archaeological resources or recovering artifacts or the informational content;

(S) Project effects on other identified social and environmental resources and resource uses including provisions for mitigation of adverse impacts;

(T) The locations of all other proposed or existing hydroelectric projects in the same river basin as the proposed

project; and

(U) A technical evaluation of the potential for cumulative impacts on the natural resources listed in OAR 690-51-190 through 690-51-250 resulting from the proposed project when considered with other existing, approved and proposed hydroelectric projects in the river basin.

(f) Exhibit F. Drawings as Specified in OAR 690-51-110

(g) Exhibit G. Maps as Specified in OAR 690-51-110

(h) The names and mailing addresses of all property owners, as can reasonably be determined from records in the office of the County Assessor, whose land is:

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

(B) Borders or is within the project vicinity.

(i) Such additional documents or data as applicant may consider pertinent to submit.

Drawings and Maps

690-51-110 Drawings and maps as described in this section shall accompany each application filed under OAR 690-51-100.

(1) Drawings

(a) The applicant shall provide general design drawings showing plans, elevations, and sections of all principal structures and appurtenant works or other features of the project. These drawings shall be in sufficient detail and shall be accompanied by sufficient information relating to controlling factors (such as character of foundations and explorations thereof, materials, types of construction, important elevations and water levels, etc.) to enable the Commission to understand the project and determine safety, practicability, adequacy, and desirability in the development of the resources involved, to preserve the public interest.

(b) Scales should be no larger than necessary to show clearly the information required. Drawings should be simple. Details are desired only to show important features for determining safety, adequacy, and suitability of design. Working drawings and any changes must be filed with and approved by the Commission before construction work is begun. (One tracing and one print.) This section applies to:

(A) Dams and appurtenances such as spillways, fishways, outlet works, etc.;

(B) Navigation structures, including locks, lock gates, and operating machinery, etc.;

(C) Conduits, including forebays, intake works, surge tanks, and other pressure relief devices, etc.; and

(D) Powerhouses and substations.

(c) A general description and general specifications of mechanical, electrical, and transmission equipment and their appurtenances shall be provided in sufficient detail to enable the Commission to understand the project or projects and to determine safety, adequacy, and suitability for the development and utilization of the resources involved.

(2) Maps