



Oregon

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To: Oregon Energy Facility Siting Council

From: Thomas L. Jackman, Rules Coordinator

Date: April 5, 2024

Subject: Agenda Item C (Action Item) – Initiation of Application Process Phase 2 Rulemaking for the April 19, 2024 EFSC Meeting

STAFF RECOMMENDATION

Staff recommends that the Council initiate informal proceedings on the Application Process Phase 2 Rulemaking, which was approved for the 2024-2026 Rulemaking Schedule. Staff recommends that Council approve the scope and general direction of the rulemaking as outlined below. Staff also requests that the Council approve the creation of a Rulemaking Advisory Committee (RAC). Staff's recommended makeup of this RAC (by category) is discussed below. Please note that the Council is not being asked at this time to consider proposed rule amendments or the adoption of permanent rules.

BACKGROUND AND SUMMARY

As part of the 2024-2026 Rulemaking Schedule, the Council directed staff to continue its work on its comprehensive review of the rules governing the site certificate application process. Phase 1 of this effort was completed in 2023. That phase was designed to improve the readability of the application process rules found in Division 015.

Phase 2 of the Application Process Review Project will include review of application information and procedural requirements currently located in divisions 020 and 021 to ensure that requirements align with what is needed to demonstrate compliance with the Council's standards. If requirements that do not align with an existing standard are identified, staff will evaluate whether the requirements should be removed, or if the standards should be modified. However, most substantial modifications to either application requirements or standards will not occur until Phase 3, which is not expected until 2025.

Due to the complex nature of this project, and the high level of stakeholder interest anticipated, staff recommends Council appoint a Rulemaking Advisory Committee for the project.

APPLICATION PROCESS PHASE 2 RULEMAKING - SCOPE AND OBJECTIVES

The Application Process Phase 2 rulemaking is intended to evaluate the application process as currently outlined in Divisions 020 and 021 to achieve three main goals:

- 1) Improve the clarity of the rules by resolving ambiguities based on lessons learned.
- 2) Make changes to ensure that application requirements align with what is needed to demonstrate compliance with the Council's standards.
- 3) Update the rules to ensure compliance with new statutes and revised rules.

With respect to the second goal outlined above, staff expects that proposed changes will include both removing information requirements that are deemed unnecessary or redundant as well as identifying where new information requirements should be added to ensure staff is given the information it needs to ensure compliance with the Council's standards. This should streamline the application process by reducing the need for staff to send applicants as many requests for additional information.

Staff recommends the Council approve the scope of the Application Process Phase 2 rulemaking as outlined above.

RAC FORMATION

At this time, staff recommends the formation of a RAC, which will be relied upon to provide feedback from interested parties about the proposed modifications to the rules. Staff proposes a RAC consisting of around 15 members:

- 2 – Investor-owned utilities
- 3 – Independent power producers and their representation
- 5 – Reviewing agencies (which includes the counties, state agencies, and the nine tribal governments)
- 3 – The public
- 2 – Resource interest groups and environmental justice groups

Staff expects to hold at least 2 RAC meetings. However, given the potential interest and complexity of this rulemaking, more than two RAC meetings are likely.

Staff expects moderately high interest in this rulemaking given the importance of the application process rules to the siting process. However, based on prior discussions with prospective RAC members, this rulemaking will not reach the levels of interest that Phase 3 of this rulemaking is expected to generate.