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<p>(50)(i) – The definition should be amended to correct the name of the “Northwest Power and Conservation Council.”</p> <p>(50)(n) – The definition should be amended to correct the name of the “Legislative Commission on Indian Services.”</p>	<p>systems), which would be owned and operated by the transmission entity. The definition could also exclude minor modifications to roads or highways that are not contiguous with the facility site. Any changes must be consistent with the statutory definition.</p>
<p>OAR 345-001-0030 Applicability</p> <p>This rule contains an exception to address amendment proceedings that were pending “before the date of adoption of this rule.” The date of adoption of the rule is not specified in the rule, but the rule history dates to 1978. The exception language can be deleted because any “pending” amendment proceedings have been concluded by now.</p>	
<p>345-001-0050 Public Records Availability and Fees for Copying</p> <p>This rule addresses public records requests and fees charged for copies of records. The rule could be amended to be consistent with the public records fee policies of ODOE. This might be done simply by cross-reference to OAR 330-001-0025.</p>	
<p>DIVISION 11 – COUNCIL MEETINGS AND COMMUNICATION</p>	
<p>345 011-0020 Agendas for Regular Meetings</p> <p>(3) – This rule provides for public comment at a “designated time” at Council meetings “regarding any item within the Council’s jurisdiction.” The rule should be amended to exclude comment on matters that are closed to public comment (for example, comment regarding a site certificate decision after</p>	

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<p>the close of the record of the public hearing).</p> <p>(4) – This rule specifies that the Council Secretary must “mail” the agenda “together with minutes of all previous meetings that the Council has not approved” to Council members at least one week before a regular Council meeting. The rule should be amended to allow for email distribution of the agenda. The rule should also be amended to provide more flexibility as to when draft minutes must be delivered to Council members. The rule also states that the Secretary must “send” the agenda to persons on the general mailing list. The rule should be amended to specifically allow for email distribution.</p>	
<p>345-011-0050 Council Files</p> <p>This rule specifies that minutes of Council meetings must be transferred to the State Archives after being retained at ODOE for “at least five years.” The rule is ambiguous, because it is unclear when the 5-year period begins. It is also ambiguous as to whether the minutes must be transferred to Archives after 5 years or whether the transfer occurs at an indefinite time. The rule also requires the Secretary to “keep a record of all files.” It is unclear what kind of record is needed and what “files” are subject to this requirement. The rule should be amended to eliminate the ambiguities.</p>	
<p>DIVISION 15 – PROCEDURES GOVERNING COUNCIL AND DEPARTMENT OF ENERGY PROCEEDINGS, INCLUDING SITE CERTIFICATE HEARINGS</p>	
<p>345-015-0014 Contested Case Notices</p> <p>(1) – This subsection on contested case notices should be amended to eliminate the requirement that the notice state “the time and place of the pre-hearing conference.” The information is not required under the Attorney General’s model rules for contested case notices. The scheduling of a pre-hearing conference should be left up to the Hearing Officer to decide.</p>	

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<p>(3) – This subsection should be amended to specify that ODOE should send the contested case notice by registered or certified mail (See ORS 183.415(2)).</p> <p>(3)(a) – This subsection requires the Department to send a contested case notice “to all persons who appeared in person or in writing at the public hearing.” The use of the term “appeared” is legal jargon and may be confusing to some people, although it mirrors ORS 469.370(5). The notice should be sent to persons who “commented” in person or in writing at the public hearing.</p> <p>(3)(c) – This subsection applies to site certificate amendments and requires the Department to send a contested case notice “to all persons who commented on the Department’s proposed order on the amendment.” As currently written, this requirement is not limited to persons who requested a contested case proceeding. The rule should be amended to require notice only to persons who requested a contested case proceeding.</p>	
<p>345-015-0085 Hearing Officer's Proposed Contested Case Order</p> <p><i>New</i> (10) – A new subsection could be added to specify that the Council will issue all site certificates or amended site certificates in duplicate counterpart originals and that each counterpart, upon signing, will have the same effect.</p>	
<p>345-015-0110 Public Notice of a Notice of Intent</p> <p>(1)(a) – This subsection requires ODOE to “mail” public notice of a notice of intent to the Council’s general mailing list and to any special mailing list set up for the proposed project. The rule should be amended to allow for email distribution of the notice.</p> <p>(1)(b) – This subsection requires ODOE to “mail” notice to the property owners based on a list provided by the applicant in the NOI. The rule could be amended to specify that regular (USPS) mail is intended rather than email.</p>	<p>(1)(a) The rule could be amended to eliminate direct mailing or emailing to individuals and provide notice of NOIs exclusively by posting to ODOE’s website.</p> <p>(1)(c) and (d) – These subsections require newspaper publication of the public notice of an NOI. These rules could be amended to eliminate the newspaper</p>

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<p>(1)(g) – This subsection should be amended to explain that comments may be submitted by regular mail, email or fax (the notice should provide mailing address, email address and fax numbers).</p> <p>(1)(h) – This subsection requires that the address of the Department be included in the notice “for persons wanting more information about the NOI.” It is unlikely that requests for information will be submitted by regular mail. The rule could be amended to require identification of the ODOE project officer to contact for more information along with contact information (phone, email).</p> <p>(3) – This subsection “encourages” ODOE to send notice to the Council’s mailing list if ODOE learns that the applicant has applied for local land use approval. Local land use proceedings will be subject to local ordinances regarding public notice. This rule could be eliminated—or amended to require ODOE to post notice of the local land use proceeding on the Department’s website, instead of direct mailing or emailing to individuals.</p>	<p>publication requirement and require, instead, that notice be posted on the ODOE website.</p>
<p>345-015-0120 Memorandum on a Notice of Intent</p> <p>(2)(h) – This subsection is part of a list of information that ODOE must include in the memorandum to reviewing agencies concerning an NOI. This subsection (h) requires ODOE to ask tribes to list tribal codes that the tribe recommends to the Council “for its review of the application” and to provide “specific information regarding the proposed facility or study areas described in the NOI that is necessary for determining compliance with those tribal codes.” Because the Council has no jurisdiction to determine compliance with tribal codes, this information seems unnecessary and inappropriate. This subsection (h) should be eliminated. Tribes are “reviewing agencies” and may provide comments in response to (2)(b) of this rule.</p>	
<p>345-015-0160 Project Order</p> <p>(1) – This subsection specifies when ODOE sends a project order to the</p>	

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<p>applicant. A word is missing in the first sentence and there is an incorrect cross-reference. The cross-reference can be eliminated, and the sentence can be simplified as follows: <i>"Following the review of the notice of intent or, in the case of an expedited review, following receipt of a preliminary application for a site certificate, the Department of Energy shall send a project order to the applicant establishing the following: ..."</i></p> <p>(1)(i) – This subsection contains an incorrect cross-reference to "OAR 345-021-0010(1)(n)(E) or (F)." It is likely that "(F) or (G)" was intended. The intent of this subsection is to allow ODOE to include in the project order one or more additional alternatives that the applicant should evaluate in addition to the alternatives that the applicant must evaluate as described in OAR 345-021-0010(1)(n)(F) or (G).</p> <p>(2) – The last sentence of this subsection contains a cross-reference to a rule that does not exist ("OAR 345-015-0140(3)"). The intended cross-reference is unclear (but note that waiver of application requirements is allowed under OAR 345-021-0000(5)). The sentence should be deleted to avoid the need for an amended project order if a request to modify under OAR 345-021-0000(5) is received after the proposed order has been issued.</p>	
<p>345-015-0190 Determination of Completeness</p> <p>(4) – As currently written, this subsection does not address multiple requests for additional information (RAI). In practice, it is not uncommon for ODOE to issue more than one set of RAI or to need follow-up information if the response to an RAI is inadequate. This rule could be amended by adding a new sentence at the beginning: <i>"The Department may submit as many requests for additional information as necessary to obtain the information that the Department needs to determine that the application is complete."</i> The current first sentence could be amended to replace "a date by which the applicant must submit additional information" with <i>"the dates by which the applicant must submit additional information."</i></p> <p>(7) – This subsection requires ODOE to "mail" notice to persons on the Council's general mailing list, any special mailing list set up for the proposed</p>	<p>(7) – This subsection requires newspaper publication of a notice that the application is complete. This rule could be amended to eliminate the</p>

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<p>facility, and the list of property owners provided by the applicant in Exhibit F of the application. The rule should be amended to allow for email distribution of the notice.</p>	<p>newspaper publication requirement and require, instead, that notice be posted on the ODOE website.</p>
<p>345-015-0220 Public Hearing on the Draft Proposed Order</p> <p>(2)(b) – This subsection requires ODOE to “mail” the notice of the public hearing to persons on the Council’s general mailing list, to any special mailing list set up for the proposed facility, and to the list of property owners provided by the applicant in Exhibit F of the application. The rule should be amended to allow for email distribution of the notice.</p> <p>(3)(d) – This subsection requires that the notice of a public hearing include “a statement that copies of the application and draft proposed order are available for inspection at no cost and will be provided a reasonable cost.” As written, the rule is confusing. Because on-line availability of <u>the complete application</u> may or may not be feasible, the rule should continue to provide addresses of locations where copies of the complete application may be inspected or reviewed by the public. If the complete application is available online, then the notice should specify the website where the application can be found. If a member of the public wants to obtain a copy of the complete application, the request should be handled in the same manner as any other public record request, and the procedure need not be specified in this rule. The rule should state that <u>the draft proposed order</u> is available online from the Department’s website.</p> <p><i>New (7) – A new subsection could be added to specify that “The Council will not accept or consider any further public comment on the site certificate application, on the draft proposed order or on the proposed order after the close of the record of the public hearing.”</i></p>	<p>(2)(a) – This subsection requires ODOE to arrange for newspaper publication of the public hearing notice. This rule could be amended to eliminate the newspaper publication requirement and require, instead, that notice be posted on the ODOE website.</p>

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<p>345-015-0240 The Decision-Making Record</p> <p>“Office” of Energy should be corrected to “Department” of Energy.</p>	
<p>345-015-0300 Request for Expedited Review of Small Capacity Facilities</p> <p>(2)(c) – The word “preliminary” should be inserted before “application for site certificate.”</p> <p>(3) – In the first sentence, the word “preliminary” should be inserted before “application for site certificate.”</p>	
<p>345-015-0310 Request for Expedited Review of Special Criteria Facilities</p> <p>(5) – In the first sentence, the word “preliminary” should be inserted before “application for site certificate.” The rule requires the applicant to submit “an original and ten copies of the application to the Department.” The rule also requires, “in addition to the printed copies,” that the applicant submit “the text (including appendices and graphical information to the extent practical)” in electronic format. These requirements should be amended. The applicant should submit an <u>original paper copy plus at least two additional paper copies</u>. This would give us one paper copy for the project officer and one additional copy to make available for public inspection (while preserving the original). If paper copies are needed for DOJ and for consultants, those copies can be included in the “reviewing agency” mailing list that is referenced in (4) of this rule. In addition, the rule should specify that the applicant must provide a paper copy, upon request, for any member of the Council. Further, the rule should require the applicant to submit the <u>full</u> preliminary application (not just the main text) in “electronic format acceptable to the Department.”</p> <p>(6) – The word “preliminary” should be inserted before “application for a site certificate.”</p> <p>(7) – The word “preliminary” should be inserted before “application for a site</p>	

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<p>certificate.”</p> <p>(8) – This subsection should be amended to accommodate multiple RAI. The language should parallel OAR 345-015-0190(4)—see above.</p> <p>(15)(b) – This subsection requires ODOE to mail a notice to persons on the Council’s general mailing list, any special mailing list set up for the proposed facility, and the list of property owners provided by the applicant in Exhibit F of the application. The rule should be amended to allow for email distribution of the notice.</p> <p>(21)(b) – This subsection requires ODOE to mail a notice to persons on the Council’s general mailing list, any special mailing list set up for the proposed facility, and the list of property owners provided by the applicant in Exhibit F of the application. The rule should be amended to allow for email distribution of the notice.</p>	<p>(15)(a) – This subsection requires ODOE to arrange for newspaper publication of the public notice that the application is complete. This rule could be amended to eliminate the newspaper publication requirement and require, instead, that notice be posted on the ODOE website.</p> <p>(21)(a) – This subsection requires ODOE to arrange for newspaper publication of the public hearing notice. This rule could be amended to eliminate the newspaper publication requirement and require, instead, that notice be posted on the ODOE website.</p>
DIVISION 20 – NOTICE OF INTENT	
<p>345-020-0011 Contents of a Notice of Intent</p> <p>(1)(a) – The rule does not include a subsection specific to limited liability companies. The rule should be amended to list information applicable to an LLC similar to what is required for corporations. Subsections (A), (B), (C), (E), (F) and (G) should be amended to require email addresses.</p> <p>(1)(b)(A) – The subsection should be amended to correct the paragraph numbering.</p> <p>(1)(g)(A) – The subsection could be amended to require that the location map include any permitted electrical generating facilities within 10 miles of the proposed facility site. This would include non-jurisdictional facilities. Note</p>	

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<p>that shape files for all such facilities may be difficult for applicants to obtain. The requirement could be “softened” to require that the approximate locations be shown.</p> <p>(1)(o) – The word “preliminary” should be inserted before “application for a site certificate.”</p> <p>(1)(p) – This subsection should be amended to correct the name of the “Legislative Commission on Indian Services.”</p> <p>(3) – The subsection requires the applicant to submit “an original and ten copies of the NOI to the Department.” The rule also requires, “in addition to the printed copies,” that the applicant submit “the text (including appendices and graphical information to the extent practical)” in electronic format. These requirements should be amended. The applicant should submit an original paper copy plus at least two additional paper copies. This would give us one paper copy for the project officer and one additional copy to make available for public inspection (while preserving the original). If paper copies are needed for DOJ and for consultants, those copies can be included in the “reviewing agency” mailing list that is described in OAR 345-020-0040. In addition, this subsection should specify that the applicant must provide a paper copy, upon request, for any member of the Council. Further, the subsection should require the applicant to submit the full NOI in “electronic format acceptable to the Department.”</p>	
<p>345-020-0016 Amendment of a Notice of Intent</p> <p>(1) The subsection requires the applicant to submit “the original and ten copies of the amended NOI to the Department.” The rule also requires, “in addition to the printed copies,” that the applicant submit “the text (including appendices and graphical information to the extent practical)” in electronic format. These requirements should be amended. The applicant should submit an original paper copy plus at least two additional paper copies. If paper copies are needed for DOJ and for consultants, those copies can be included in the “reviewing agency” mailing list that is described in OAR 345-020-0040. In addition, the rule should specify that the applicant must provide a paper</p>	

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<p>copy, upon request, for any member of the Council. Further, the rule should require the applicant to submit the full amended NOI in "electronic format acceptable to the Department."</p>	
<p>345-020-0040 Distribution of a Notice of Intent</p> <p>(1) – This subsection requires the applicant to distribute the NOI to reviewing agencies "as soon as practical after submission of the notice of intent." In practice, after submission of the NOI to ODOE, the project officer prepares the memorandum described in OAR 345-015-0120. This memorandum must include a deadline for agency comment and the date of a public informational meeting (if ODOE chooses to schedule such meeting). Therefore, the date for sending the NOI to the reviewing agencies must be determined through coordination between ODOE and the applicant. The rule could be amended to add a new sentence at the beginning: <i>"After receiving the NOI, the Department will prepare the memorandum described in OAR 345-015-0120 and, in coordination with the applicant, determine a distribution date and a distribution list."</i> The current first sentence could be revised, as follows: <i>"The applicant shall distribute copies of the NOI to the persons on the distribution list on or before the distribution date."</i> A new third sentence could be added, as follows: <i>"The Department shall include the reviewing agencies as defined in OAR 345-001-0010 on the distribution list and may include additional persons."</i></p>	
<p>345-020-0060 Expiration of a Notice of Intent</p> <p>(1) – The current rule allows the Council to extend the expiration date of an NOI for a period of up to one year. The rule does not specify whether the Council can grant more than one extension. The rule should be amended to clarify Council policy (my recommendation would be to limit the extension to a single one year period with no further extensions).</p>	

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DIVISION 21 – APPLICATION FOR A SITE CERTIFICATE	
<p>345-021-0010 Contents of an Application</p> <p>The introductory paragraph should be amended to state that, in a request for expedited review, the applicant may request an exception to the “study areas” and the Department may approve the exception. This would parallel the language currently in OAR 345-015-0300(3).</p> <p>(1)(a) – The rule does not include a subsection specific to limited liability companies. The rule should be amended to list information applicable to an LLC similar to what is required for corporations. Subsections (A), (B), (C), (E), (F) and (G) should be amended to require email addresses.</p> <p>(1)(b)(A)(vi) – Inconsistent punctuation should be corrected. I suggest that list items should end in periods rather than semicolons.</p> <p>(1)(b)(D) – Inconsistent punctuation should be corrected. The word “and” at the end of (vi) is misplaced and should be deleted.</p> <p>(1)(b)(D)(iii) – This rule contains a cross-reference to ORS 368.001 for a definition of “public roads.” The cross-reference may be confusing, however, because the referenced statute addresses only county roads. The meaning of “public road” is clear without a specific definition and the cross-reference should be eliminated.</p> <p>(1)(b)(E) – This subsection was intended to address all pipelines and transmission lines (whether they are stand-alone energy facilities or related or supporting facilities) regardless of size. Because the language does not parallel the language used in (1)(b)(D), there may be some confusion about which pipelines and transmission lines are covered. The use of the word “facility” in several places in subsection (iii) adds to the confusion. The introductory part of the rule should be amended to parallel (1)(b)(D): <i>“If the proposed energy facility is a pipeline or transmission line or has, as a related or supporting facility, a transmission line or pipeline of any size:...”</i> Subsection (iii) should be amended as follows: <i>“If the proposed <u>transmission line or</u></i></p>	

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<p><i>pipeline corridor follows or includes public right-of-way, a description of where the <u>transmission line or pipeline</u> would be located within the public right-of-way, to the extent known. If the applicant proposes to locate all or part of a pipeline or transmission line adjacent to but not within the public right-of-way, describe the reasons for locating the <u>transmission line or pipeline</u> outside the public right-of-way. The applicant must include a set of clear and objective criteria and a description of the type of evidence that would support locating the <u>transmission line or pipeline</u> outside the public right-of-way, based on those criteria."</i></p> <p>(1)(c) - The subsection could be amended to require that at least one location map include any permitted electrical generating facilities within 10 miles of the proposed facility site. This would include non-jurisdictional facilities. Note that shape files for all such facilities may be difficult for applicants to obtain. The requirement could be "softened" to require that the approximate locations be shown.</p> <p>(1)(c)(A) and (B) - Inconsistent punctuation should be corrected. I suggest that list items should end in periods rather than semicolons. The word "and" at the end of (A) should be eliminated.</p> <p>(1)(c)(B) – The phrase "including the approximate land area of each" has resulted in applicants giving us tables of individual components and a unit area for each component. When unit areas are added together, however, the total area of permanent disturbance or temporary disturbance is overstated—leading to inconsistencies with other calculations of area given in the application (for instance, the areas of habitat disturbance or areas to be restored upon retirement). If the unit areas are used to calculate the site restoration cost, this will cause inaccurate results. The phrase should be amended to read: "<i>...including the total area (in acres) within the proposed site boundary, the total area that would be occupied by permanent facility structures, and the total area of temporary disturbance.</i>"</p> <p>(1)(d) – Inconsistent punctuation should be corrected. I suggest that list items should end in periods rather than semicolons. The word "and" at the end of (E) should be eliminated.</p>	

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<p>(1)(f) – The requirement to submit the property owner list “in electronic format acceptable to the Department for the production of mailing labels” should be amended to require the property owner list to be submitted in the form of a spreadsheet with columns for Last Name, First Name, Organization or Alternate Name, Street Address, PO Box Address, City, and State (or such columns that we currently use for our mailing list database).</p> <p>(1)(h)(F)(i) – Update the cross-reference to the IBC, if a newer version applies (confirm with DOGAMI).</p> <p>(1)(h)(F)(iv) – Update the cross-reference to the Oregon Structural Specialty Code, if a newer version applies (confirm with DOGAMI).</p> <p>(1)(j) – The Council does not have jurisdiction over “waters of the United States.” References to waters of the United States that appear throughout (j) should be eliminated.</p> <p>(1)(j)(B) – The cross-reference to OAR 141-085-0010 is incorrect. The correct reference is OAR 141-085-0510. The rule could instead refer to the statute, ORS 196.800.</p> <p>(1)(j)(D) – The cross-reference to OAR 141-085-0018 is incorrect. No cross-reference is needed.</p> <p>(1)(k) – In the second sentence, the cross-reference to “ORS 504(1)(b)” is incomplete. It should be corrected to read: “ORS 469.504(1)(b).”</p> <p>(1)(k) – The phrase “Notwithstanding OAR 345-021-0090(2)” should be deleted. The cross-reference (to the rule allowing amendment of an application) is not needed.</p> <p>(1)(p)(B) – The habitat description should include a table of the areas (in acres) of permanent and temporary disturbance to each habitat category and subtype.</p> <p>(1)(r) – The phrase “local land use plans” should be amended to read: “state or local government land use plans.”</p> <p>(1)(r)(A) – Insert the word “state” before “local.”</p> <p>(1)(r)(B) – The subsection should be amended to add: “..., <i>including a copy of</i></p>	

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<p><i>the portion of the management plan that identifies the resource as significant or important."</i></p> <p>(1)(s)(D)(iv) – The statutory reference is incorrect. The correct reference is ORS 390.235. Further consideration is needed to determine whether the Council would have jurisdiction over this type of permit. If this is not a Council permit decision, then the subsection (iv) <u>could be deleted</u>.</p> <p>(1)(t)(A) – The subsection should be amended to read: <i>"A description of recreational opportunities in the analysis area and an analysis of the factors listed in OAR 345-022-0100(1)."</i></p> <p>New (1)(x)(E) – A new subsection could be added to require a list of the names and mailing addresses of all owners of properties for which a noise waiver may be needed.</p> <p>(1)(aa) – The introductory sentence should be amended to parallel the language used in (1)(b)(E), if amended as suggested above, as follows: <i>"If the proposed energy facility is a transmission line or has, as a related or supporting facility, a transmission line of any size:..."</i></p> <p>(3) - The subsection requires the applicant to submit "an original and ten copies of the application to the Department." The word "preliminary" should be inserted before "application." The rule also requires, "in addition to the printed copies," that the applicant submit "the text (including appendices and graphical information to the extent practical)" in electronic format. These requirements should be amended. The applicant should submit an original paper copy plus at least two additional paper copies. If paper copies are needed for DOJ and for consultants, those copies can be included in the distribution list under OAR 345-021-0050. In addition, the rule should specify that the applicant must provide a paper copy, upon request, for any member of the Council. Further, the rule should require the applicant to submit the full preliminary application in "electronic format acceptable to the Department."</p>	

345-021-0050

Distribution of a Preliminary Application

(1) – The second sentence of this subsection should be deleted and replaced with the following to parallel the changes suggested above for OAR 345-020-0040, as follows: *“After receiving the preliminary application, the Department will prepare the memorandum described in OAR 345-015-0180 and, in coordination with the applicant, determine a distribution date and a distribution list. The applicant shall distribute copies of the preliminary application to the persons on the distribution list on or before the distribution date. The Department shall include the reviewing agencies as defined in OAR 345-001-0010 on the distribution list and may include additional persons.”*

(2) – The phrase “upon receipt of the preliminary application” should be amended to read: *“After reviewing the preliminary application....”*

(4)(b)(A) – The following new sentence should be added after the first sentence in this subsection: *“For the purposes of this rule, the application is submitted on the date that the Department receives the preliminary application.”*

(4)(b)(D) – This subsection places an unnecessary burden on local government and should be deleted.

New (6) – A new subsection could be added to address public access to the preliminary application. Currently, there is no rule that requires the Department to issue a public notice of the fact that the applicant has submitted a preliminary application. The thinking behind this was that the preliminary application is not complete. It is subject to modification and addition of new information as a result of the RAI process. Premature public distribution of application information at the preliminary application stage may confuse or unnecessarily alarm some members of the public. When the application is complete and the supplement is available, OAR 345-015-0190 requires the Department to issue a public notice and make copies of the

(1) – This subsection contains a provision for sending the preliminary application to reviewing agencies in electronic format (in whole or in part). The applicant must obtain the reviewing agency’s consent in writing. Although some agencies may be content with an electronic version of the preliminary application, other agencies may prefer printed copies—or at least printed copies of those parts of the application that are most relevant to the agency’s review. As written, it is an “opt-out” system—that is, the reviewing agency gets a printed copy of the entire application, unless the agency opts-out and agrees to accept an electronic copy. The rule could be changed to be an opt-in system—the reviewing agency would get an electronic copy unless they request a paper copy. Because there is a time limit for the reviewing agency to provide completeness comments, however, the opt-in approach involves a risk that the reviewing agency will either ignore the CD version or delay requesting a paper version and end up with insufficient time to do a completeness review.

<p><u>complete</u> application available. Nevertheless, to promote “transparency” of the Council process, a new subsection could be added to OAR 345-021-0050, as follows: “<i>After receiving the preliminary application, the Department shall post an announcement on its website to notify the public that a preliminary application has been received. The Department shall include in the announcement the addresses of locations where the public may review copies of the preliminary application. The announcement may include the preliminary application or sections of the preliminary application that may be viewed or downloaded. The announcement may contain a link to the applicant’s website, if any, where the preliminary application may be viewed or downloaded.</i>”</p>	
<p>345-021-0055 Distribution of a Complete Application</p> <p>(1) - This subsection requires the applicant to submit “an original and ten copies of the application supplement to the Department.” The rule requires, “in addition to the printed copies,” that the applicant submit “the text (including appendices and graphical information to the extent practical)” in electronic format. These requirements should be amended. The applicant should submit an original paper copy plus at least two additional paper copies. If paper copies are needed for DOJ and for consultants, those copies can be included in the “mailing list” (or distribution list) described in this rule. In addition, the rule should specify that the applicant must provide a paper copy, upon request, for any member of the Council. Further, the rule should require the applicant to submit the full application supplement in “electronic format acceptable to the Department.”</p>	<p>(1) – Any changes that are made to the “opt-out” system for distribution of the preliminary application in OAR 345-021-0050(1), discussed above, should also be made here with regard to electronic copies of the supplement.</p>
<p>345-021-0090 Amendment of an Application</p> <p>(5) – This subsection requires the applicant to submit “an original and ten copies of the amended application to the Department.” The subsection requires, “in addition to the printed copies,” that the applicant submit “the text (including appendices and graphical information to the extent practical)” in electronic format. These requirements should be amended. The applicant should submit an original paper copy plus at least two additional paper copies. This would give us one paper copy for the project officer and one</p>	

additional copy to make available for public inspection (while preserving the original). The subsection should specify that the applicant must provide a paper copy, upon request, for any member of the Council. Further, the subsection should require the applicant to submit the full amended application in "electronic format acceptable to the Department."

New (6) – The current rule does not address distribution of an amended application to the reviewing agencies or anybody else. Nor does the rule require a cover memorandum from the Department that would inform the reviewing agencies of the Department's interest in getting the reviewing agency's comments on the amended application. With rare exception, an amended application will be treated as a preliminary application and should be subject to completeness review. A new subsection could be added, as follows: " After receiving the amended application, the Department will prepare the memorandum described in OAR 345-015-0180 and, in coordination with the applicant, determine a distribution date and a distribution list. The applicant shall distribute copies of the amended application to the persons on the distribution list on or before the distribution date. The Department shall include the reviewing agencies as defined in OAR 345-001-0010 on the distribution list and may include additional persons."

New (7) – A new subsection could be added, as follows: " After receiving the amended application, the Department shall post an announcement on its website to notify the public that an amended application has been received. The Department shall include in the announcement the addresses of locations where the public may review copies of the amended application. The announcement may include the amended application or sections of the preliminary application that may be viewed or downloaded. The announcement may contain a link to the applicant's website, if any, where the amended application may be viewed or downloaded."

DIVISION 22 – GENERAL STANDARDS FOR SITING FACILITIES

345-022-0020 Structural Standard

(1)(a) - Update the cross-reference to the IBC, if applicable (confirm with DOGAMI).

<p>345-022-0040 Protected Areas</p>	<p>(1) – The list of protected areas is currently bounded by federal and state designations in effect as of May 11, 2007. Further consideration should be given on updating this reference, but this requires researching all categories of protected areas to determine if there have been any changes in designations since 2007.</p>
<p>345-022-0080 Scenic Resources</p> <p>(1) - The phrase “local land use plans” should be amended to read: “state or local government land use plans.”</p>	
<p>DIVISION 23 – NEED STANDARD FOR NONGENERATING FACILITIES</p>	
<p>345-023-0005 Need for a Facility</p> <p>(1) – The cross-reference to “OAR 345-001-0010” leads to another cross-reference. The reference here should be changed to “ORS 469.503(2)(e).”</p>	
<p>345-023-0030 System Reliability Rule for Electric Transmission Lines</p> <p>(1) – The cross-reference to ORS 469.300(9) is incorrect. The reference should be simplified to “ORS 469.300.”</p> <p>(2) – This subsection contains a cross-reference to “minimum operating reliability criteria contained in the Western System Coordinating Council Bulk Power Supply Program 1997-2007, dated April 1, 1998.” This reference should be updated, if applicable.</p>	
<p>345-023-0040 Economically Reasonable Rule for Natural Gas Pipelines or Liquefied Natural Gas Storage Facilities</p> <p>(1) – The cross-reference to ORS 469.300(9) is incorrect. The reference should be simplified to “ORS 469.300.”</p>	

DIVISION 24 – SPECIFIC STANDARDS FOR SITING FACILITIES

345-024-0015

Siting Standards for Wind Energy Facilities

The title of this standard is uninformative. There are many other siting standards that apply to wind energy facilities. The standard addresses cumulative adverse environmental effects. The title could be changed to reflect the content of the rule: "*Cumulative Effects Standard for Wind Energy Facilities.*"

Standards for Energy Facilities That Emit Carbon Dioxide

345-024-0550, -0560, -0570, -0590, -0600, -0610, -0620, -0630, -0640, -0680, -0710 and -0720.

The carbon dioxide emissions rules must be amended to make them consistent with HB 3538.

DIVISION 26 – CONSTRUCTION AND OPERATION RULES FOR FACILITIES

345-026-0080

Reporting Requirements for Energy Facilities

(1)(a) and (b) – The current reporting rules have created unintentional confusion or redundancy between the semiannual construction reports and the annual report. This situation could be corrected by eliminating the simultaneous requirements for construction reports and annual reports. Construction reports are on a six-month cycle that is determined by the date construction begins. Annual reports are due "by April 30 of each year after beginning construction." Although a certificate holder may submit an annual report at any time between January 1 and April 30, the current rules create a potential for a construction report being due in March or June and an annual report being due in April. To correct this situation, the first sentence in subsection (1)(b) could be amended to read: "*After January 1 but no later than April 30 of each year after beginning operation of the facility, the certificate holder shall submit an annual report to the Department addressing the subjects listed in subsection (2).*" Facilities may be built in phases or the certificate holder may begin commercial operation of a portion of the facility before completion of construction of the entire facility. Therefore, the rule should include a definition for "beginning operation." A new second sentence

could be inserted, as follows: *“For the purposes of this rule, the beginning of operation of the facility means the date when construction of a significant portion of the facility is substantially complete and the certificate holder begins continuous operation of the facility, as reported by the certificate holder and accepted by the Department.”*

(1)(a) – The content of semiannual construction progress reports is unclear under the current rule, which requires reporting of “such information related to construction as specified in the site certificate.” If the site certificate does not specify the information to be contained in the construction report (which is often the case), then the certificate holder does not have guidance for what to include in the semiannual construction reports. The third sentence of subsection (1)(a) should be amended to read: *“The certificate holder shall report on the progress of construction and shall address the subjects listed in subsection (2)(a), (d), (f) and (g).”*

(2)(a) – If the recommended amendment of (1)(a) is adopted as described above, then subsection (2)(a) should be amended to accommodate construction reports as well as annual reports. The second sentence should be amended to read: *“The certificate holder shall describe any unusual events, such as fires, earthquakes, extraordinary windstorms, major accidents or the like that occurred during the reporting period.”* Note that I suggest adding “fires” and deleting the qualifier at the end of the sentence “and that had a significant adverse impact on the facility.” The qualifier is unnecessary and creates uncertainty regarding the determination of which events qualify as having a “significant adverse impact.”

(2)(f) – The compliance report should describe how the applicable site certificate conditions have been satisfied. The current rule, however, is limited to reporting “instances of noncompliance.” The first sentence of this subsection should be amended to read: *“A report demonstrating compliance with all site certificate conditions that are applicable during the reporting period, including appropriate documentation.”*

(2)(g) – If the recommended amendment of (1)(a) is adopted as described above, then subsection (2)(g) should be amended to accommodate construction reports as well as annual reports: *“A summary of changes to the facility that the certificate holder made during the reporting period without an amendment of the site certificate in accordance with OAR 345-027-0050.”*

DIVISION 27 – SITE CERTIFICATE CONDITIONS, AMENDMENT, TRANSFER AND TERMINATION AND DEPARTMENT OF ENERGY APPROVAL OF GAS STORAGE TESTING PIPELINES

345-027-0020

Mandatory Conditions In Site Certificates

(1) – Because the mandatory conditions are usually incorporated verbatim in site certificates, this subsection should be amended, as follows: *"The Council shall not change the conditions of the site certificate except as provided for in OAR Chapter 345, Division 27."*

(2) – In the second sentence, the word "identifies" should be "identify" (the phrase modifies "a map and geographic data").

(6) – If the current subsection (6) is retained, the first sentence should be amended to clarify when a mitigation plan is needed: *"If the Council finds that mitigation is needed to ensure compliance with any of the standards contained in OAR Chapter 345, Division 22 or Division 24, the certificate holder shall consult with affected state agencies and local governments designated by the Council and shall develop specific mitigation plans consistent with Council findings under the relevant standards."* The second sentence should be amended to eliminate reference to the "Office": *"The certificate holder must submit the mitigation plans to the Department and receive Department approval before beginning construction or, as appropriate, operation of the facility."*

(6) – See discussion below regarding OAR 345-027-0028, which suggests replacement of this subsection.

345-027-0023

Site Specific Conditions

(4)(a) – The subsection refers to "the National Electrical Safety Code (American National Standards Institute, Section C2, 1997 Edition)." This cross-reference should be updated, if a newer version is applicable.

345-027-0028
Monitoring Conditions

The introductory sentence requires that the site certificate contain the “monitoring conditions” specified in subsections (1) through (4). In practice, these conditions have been incorporated verbatim in site certificates, as required by the rule, but the conditions lack specificity as to when a monitoring program is required, when the “consultation” referenced in subsection (1) is to occur and what constitutes “quality assurance measures” that would qualify for Department approval under subsection (3).

Subsection (4) appears to be a “stand-alone” site certificate condition that should apply whether or not the certificate holder has a “monitoring program.”

Based on our experience, in the compliance plans submitted by certificate holders, compliance with the requirements of the “monitoring conditions” required under OAR 345-027-0028 has been addressed by cross-references to other, more specific site certificate conditions, and compliance with these conditions has sometimes been confused with compliance with the mandatory mitigation condition in OAR 345-027-0020(6), discussed above. Similarly, the “mitigation” requirements under OAR 345-027-0020(6) have been addressed by cross-references to other, more specific site certificate conditions. In sum, the site certificate conditions required by this rule are too vague or too general to be useful or enforceable.

The current state of confusion could be addressed by replacing the current OAR 345-027-0020(6) with the language in current OAR 345-027-0028, making it a stand-alone mandatory condition: *“If the certificate holder becomes aware of a significant environmental change or impact attributable to the facility, the certificate holder shall, as soon as possible, submit a written report to the Department describing the impact on the facility and any affected site certificate conditions.”*

At the same time, OAR 345-027-0028 could be re-titled as “Monitoring and Mitigation Conditions” and amended to read as follows: *“In the site certificate, the Council shall include conditions that address monitoring and mitigation to ensure compliance with the standards contained in OAR Chapter 345, Division 22 and Division 24. The site certificate applicant or, for an amendment, the certificate holder shall develop monitoring and mitigation*

	<p><i>plans in consultation with the Department and, as appropriate, other state agencies, local governments and tribes. Monitoring and mitigation plans are subject to Council approval. The Council shall incorporate approved monitoring and mitigation plans in applicable site certificate conditions.”</i></p> <p>As amended, OAR 345-027-0028 would no longer need to be incorporated verbatim in site certificates. Monitoring and mitigation plans, instead, would be addressed in one or more site certificate conditions that would specify the types of monitoring and mitigation that are required and that would cross-reference the detailed plans that would be attachments to the final order. The plans could specify implementation requirements for monitoring and mitigation, success criteria and reporting requirements. If amended as suggested above, the rule would align with what is already done in current practice for wildlife monitoring and mitigation plans, revegetation plans, and habitat mitigation plans.</p>
<p>345-027-0030 Amendment to Extend Construction Beginning and Completion Deadlines</p> <p>(1) – This subsection could be amended to require the certificate holder to explain the need for an extension of the construction beginning and completion deadlines.</p>	

345-027-0050

When an Amendment is Required

(2)(e) – This subsection is written too broadly. It appears to allow any kind of change “not addressed in the site certificate” – even a change that “could result in a significant adverse impact that the Council has not addressed.” The intent of this subsection was to allow minor changes to be made without a site certificate amendment but not to allow a change that would violate a site certificate condition—or violate Council standards. Because subsection (1) states when a site certificate amendment is required, by implication, an amendment is not required for any type of change that does not trigger the criteria in (1)(a), (b) and (c).

Subsections (2) and (6) as currently written are exceptions—that is, an amendment is not required for the types of changes described in (2) or (6), *regardless* of the criteria in (1)(a), (b) and (c). Subsection (6) is a special case and refers to gas storage testing pipelines that are subject to Department (not Council) approval as described in OAR 345-027-0210 through -0240 (these rules implement ORS 469.405(3)). In contrast, subsections (2)(a) through (d) list specific kinds of changes for which a judgment was made in an earlier rulemaking that no analysis of potential adverse impacts was necessary. It was thought that, as long as the change was “in substantial compliance with the terms and conditions of the site certificate,” the change could occur without a site certificate amendment. Subsection (2)(e) was added to provide a “catch-all” exception for changes to “an aspect or feature of the facility” that should not warrant an amendment proceeding. Assuming that the Council wants to retain some form of catch-all exception, subsection (2)(e) should be amended so that the exception does not swallow the rule, as follows:

“(2) A site certificate amendment is not required if a proposed change in the design, construction or operation of a facility is in substantial compliance with the terms and conditions of the site certificate and is a change:

“(e) To an aspect or feature of the facility that would potentially result in adverse impacts but those impacts are of a kind and level of

<p>(3) – The first sentence of this subsection should be amended to require an analysis of compliance of a proposed change with Council standards if the certificate holder concludes that an amendment is not required under subsection (1), as follows: <i>“If the certificate holder concludes that a site certificate amendment is not required <u>under section (1)</u>, the certificate holder shall, nevertheless, complete an investigation sufficient to demonstrate that the proposed change in the design, construction or operation of the facility would comply with applicable Council standards.”</i> Subsection (1) includes the exceptions for (2) and (6), and so reference to (2) is not needed in (3).</p> <p>(4) – If the change is made during construction, the change should be reported in the semi-annual construction report. The first sentence of this subsection should be amended to read: <i>“In the annual report <u>and semiannual construction report</u> required by OAR 345-026-0080, the certificate holder shall describe all significant changes made <u>during the reporting period</u> to the design, construction and operation of the facility without an amendment of the site certificate.”</i></p> <p>(5) – Based on our experience with “change requests,” the first sentence of this subsection should be amended and a new sentence added, as follows: <i>“The certificate holder may submit a change request in writing to the Department for a determination whether a proposed change requires a site certificate amendment. In the change request, the certificate holder must describe the proposed change, explain the basis for the certificate holder’s conclusion that an amendment is not required under section (1), and provide the written evaluation described in section (3).”</i></p>	<p><i>significance that the Council has already taken into account in making findings and conclusions an earlier order.”</i></p>
<p>345-027-0060 Request to Amend Certificate</p> <p>(1)(a) – This subsection should be amended to require the email address of the individual responsible for submitting the request.</p> <p>(1)(g) – This subsection should be amended to require an updated property owner list for <i>all</i> amendments by deleting the phrase: “If the amendment would change the site boundary, extend the deadlines for beginning or completing construction or change the legal description of the facility.”</p>	

(2) – The reference to OAR 345-021-0010(1) should be amended to read “OAR 345-021-0000 and OAR 345-021-0010.”

(4) – This subsection requires the certificate holder to submit “an original and ten copies of the amendment request to the Department.” The rule requires, “in addition to the printed copies,” that the certificate holder submit “the text (including appendices and graphical information to the extent practical)” in electronic format. These requirements should be amended. The applicant should submit an original paper copy plus at least two additional paper copies. In addition, the rule should specify that the applicant must provide a paper copy, upon request, for any member of the Council. Further, the rule should require the applicant to submit the full amendment request in “electronic format acceptable to the Department.”

345-027-0070

Review of a Request for Amendment

(1)(a) – This subsection should be amended, as follows: “*Send copies of the request, or instruct the certificate holder to send copies of the request, to the persons on a distribution list that includes the reviewing agencies as defined in OAR 345-001-0010 and that may include additional persons, with a request for comments on the request by a specified date.*”

(1)(b) – This subsection should be amended by deleting the words “the most recently received list of property owners or” and inserting “property owner” after the word “updated.”

New (1)(c) – A new subsection should be added and the current (c) should be renumbered as (d). The new subsection would require a website announcement: “(c) Post an announcement on its website to notify the public that an amendment request has been received.”

(4) – If the new subsection (1)(c) is added as described above, the cross-reference in (4) must be changed to “subsection (1)(d).”

(5) – The first sentence of this subsection should be amended, as follows: “*After issuing the proposed order, the Department shall send a notice of the proposed order to the persons on the Council’s general mailing list as defined in OAR 345-011-0020, to any special list established for the facility, to the updated property owner list supplied by the certificate holder under OAR 345-*

027-0060(1)(g) and to the distribution list described in subsection (1)(a)." The current last sentence of the subsection should be amended to read: *"In the notice, the Department shall specify that all comments must be submitted in writing and must be received by the Department by a specified deadline that is at least 30 days from the date of the notice."* A new last sentence should be inserted: *"The Department shall post an announcement on its website to notify the public of the issuance of the proposed order."*

(6) – The last sentence of this subsection should be amended to require the person's email address.

(10) – This subsection lists factors that the Council shall "consider" in regard to various types of amendment requests described in subsections (a) through (d). The subsection, however, does not explain the basis for a Council decision to grant or deny the request. The following amendment language is one possible way that Council's policy could be stated more clearly in the rule:

"(10) In making a decision to approve or deny a site certificate amendment, the Council shall apply the applicable substantive criteria, as described in OAR 345-022-0030, in effect on the date the certificate holder submitted the request for amendment and all other state statutes, administrative rules, and local government ordinances in effect on the date the Council makes its decision. The Council shall act on the amendment request as follows:

"(a) For an amendment that would change the site boundary or the legal description of the site, the Council shall approve the request if the Council finds that the facility, including the area added to the site by the amendment, complies with all Council standards.

"(b) For an amendment that extends the deadlines for beginning or completing construction, the Council shall approve the request if the Council finds that:

"(A) The extension of time would not result in any change of circumstances that affects a previous Council finding that was required for issuance of a site certificate or amended site certificate;

"(B) The facility complies with all Council standards; and

"(C) The need for the extension of time is the result of

	<p style="text-align: center;"><u>unforeseen circumstances that are outside the control of the certificate holder.</u></p> <p><i>“(c) For any amendment not described above, the Council shall <u>approve the request if the amendment would not substantially affect any finding made by the Council in an earlier order, except as required under (d).</u></i></p> <p><i>“(d) For all amendments, the Council shall <u>determine whether the amount of the bond or letter of credit required under OAR 345-022-0050 is adequate and shall adjust the amount as necessary.</u>”</i></p>
<p>345-027-0080 Review of a Request by a Certificate Holder for Expedited Amendment</p> <p>(1) – This subsection should be amended to require the certificate holder to submit the full amendment request in electronic format.</p> <p>(2) – The first sentence of this subsection should be amended, as follows: <i>“The Chair may grant a request for expedited review if <u>the Chair finds that a delay would unduly harm the certificate holder and if the facility, with the proposed change, would not likely result in a significant new adverse impact.</u>”</i></p> <p>(3)(b) – This subsection should be amended, as follows: <i>“Send a notice of the amendment request to all persons on the Council’s general mailing list as defined in OAR 345-011-0020, to any special list established for the facility and to the <u>updated property owner list supplied by the certificate holder under OAR 345-027-0060(1)(g)</u> specifying a date, not more than 21 days after the date of the notice, by which comments are due.”</i></p> <p>New (3)(c) – The following new subsection should be inserted: <i>“Post an announcement of the amendment request on its website.”</i></p> <p>(5) – The first sentence of this subsection should be amended, as follows: <i>“The Department shall send a notice of the proposed order to the persons on the Council’s general mailing list, to any special list established for the facility and to the <u>updated property owner list supplied by the certificate holder under OAR 345-027-0060(1)(g).</u>”</i> A new second sentence should be inserted: <i>“In addition, the Department shall post the notice on its website.”</i></p> <p>(7) – The second sentence of this subsection should be amended by inserting</p>	

<p>the words "or email" after the word "fax."</p> <p>(8) – The last sentence of this subsection should be amended to require the person's email address.</p>	<p>(9)(b) and (10) – Both of these subsections state that the Council may "modify the language of the temporary order, consistent with due process." It is unclear what "due process" requires the Council to do. The rule should be amended to clarify the "due process" procedures.</p>
<p>345-027-0090 Request by Any Person for Amendment to Apply Subsequent Laws or Rules</p> <p>(2)(a) – This subsection should be amended to require the person's telephone number and email address.</p> <p>(4)(b) – The cross-references to OAR 345-027-0070(1)(a), (b) and (c) will need to be amended if the Council adopts the suggested amendment to OAR 345-027-0070(1) described above.</p> <p>(4)(d) – The cross-reference to OAR 345-027-0070(7)(c) is confusing. The phrase "notwithstanding OAR 345-027-0070(7)(c)" should be deleted.</p>	
<p>345-027-0100 Transfer of a Site Certificate</p> <p>(4) – The transferee should submit an updated property owner list. The subsection should be amended by inserting ", (f)" after "(d)."</p> <p>(6) – The first sentence of this subsection should be amended to allow for email distribution. Also, the words "the most recently received list of property owners" should be amended to read "the updated property owner list submitted by the transferee under subsection (4)." The second sentence should be amended because the date of the Council's informational hearing may be unknown at the time the notice is prepared. The words "specify the date of the Council's informational hearing" should be replaced with "<i>state that the date of the Council's informational hearing will be announced on the Department's website.</i>"</p> <p>(7) – This subsection could be amended by inserting a new second sentence: "<i>The Council shall hold the information hearing during a Council meeting and shall provide notice of the hearing on its meeting agenda, which will be sent</i>"</p>	

<p><i>by mail or email to the Council's general mailing list in advance of the meeting."</i></p> <p>(8)(b) – This subsection should be amended to address the situation in which the transfer of the facility occurs after the site certificate is amended to approve the transfer of the site certificate: <i>" The transferee is or will be lawfully entitled to possession or control of the site or the facility described in the site certificate."</i></p> <p>(10) – This subsection could be amended to require that the amended site certificate will be issued in duplicate counterpart originals and that each counterpart, upon signing, will have the same effect.</p>	
<p>345-027-0110 Termination of a Site Certificate</p> <p>(4) – This subsection should be amended to require the certificate holder to submit an original paper copy plus at least two additional paper copies of the application for termination and proposed final retirement plan. In addition, the rule should specify that the applicant must provide paper copies, upon request, for any member of the Council. Further, the rule should require the applicant to submit the application for termination and the proposed final retirement plan in "electronic format acceptable to the Department."</p> <p><i>New</i> (5)(d) – A new subsection should be added to require the certificate holder to submit an updated property owner list.</p> <p>(6) – If the new (5)(d) is added as suggested above, the first sentence of this subsection should be amended by replacing the words "the most recently received list of property owners" with the words "the updated property owner list submitted by the certificate holder under subsection (5)." The subsection should be amended to specify that the Department may send copies to the reviewing agencies by mail or email. In addition, the subsection could be amended to add a requirement that the Department post an announcement of the application for termination on its website.</p> <p>(7) – There is a word missing in the third sentence. Insert the word "to" after the word "subject."</p>	

<p>345-027-0210 General</p> <p>(1) – It would be helpful to include a cross-reference to the statute by inserting “, as required under ORS 469.405(3)” at the end of the sentence.</p>	
<p>345-027-0220 Request for Approval</p> <p>(3) – This subsection requires the certificate holder to submit “the original and seven copies” of the request to construct a gas storage testing pipeline as well as the “text (and graphical information to the extent practical) in a non-copy-protected electronic format acceptable to the Department.” The subsection should be amended to require the certificate holder to submit an original paper copy plus at least two additional paper copies. In addition, the rule should specify that the applicant must provide paper copies, upon request, for any member of the Council. Further, the rule should require the applicant to submit the request in “electronic format acceptable to the Department.”</p> <p>(4)(a) – This subsection should be amended to require the responsible individual’s email address.</p>	
<p>345-027-0230 Review of a Request for Approval</p> <p><i>New</i> (1)(d) – A new subsection could be added to require that the Department post an announcement of the request to construct a gas storage testing pipeline on its website.</p>	
<p>DIVISION 29 – NOTICE OF VIOLATION, CIVIL PENALTIES, REVOCATION OR SUSPENSION</p>	
<p>No recommended amendments at this time.</p>	

Column C

DIVISION 1 – GENERAL PROVISIONS

OAR 345-001-0200, -0210, -0220

- Consideration of amendments to the procedures and definitions for “energy generation areas.”
- Adoption of one or more new EGAs.

DIVISION 22 – GENERAL STANDARDS FOR SITING FACILITIES

OAR 345-022-0050 (Retirement and Financial Assurance)

- Consideration of changes to the types of financial assurance that are acceptable to the Council (beyond bonds or letters of credit).

DIVISION 24 – SPECIFIC STANDARDS FOR SITING FACILITIES

OAR 345-024-0570 and -0580

- The CO₂ emissions standard has not been updated for a number of years. The Council needs to determine whether “the most efficient stand-alone combined cycle, combustion turbine, natural gas-fired energy facility that is commercially demonstrated and operating in the United States has a net heat rate of less than 6,955 Btu per kilowatt hour.” The Council must “determine the rate of carbon dioxide emissions per kilowatt hour of net electric output of such energy facility, adjusted to ISO conditions and reset the carbon dioxide emissions standard at 17 percent below this rate.”
- The monetary offset rate of \$1.27 per ton of CO₂ needs to be revised to reflect the current market. The rate should include the year in which the dollars are expressed.

DIVISION 27 – SITE CERTIFICATE CONDITIONS, AMENDMENT, TRANSFER AND TERMINATION AND DEPARTMENT OF ENERGY APPROVAL OF GAS STORAGE TESTING PIPELINES

Changes to the procedures for site certificate amendments might involve:

- Revising the procedure for deciding whether a contested case proceeding is warranted
- Requiring a public hearing –which might include a “raise-it-or-waive-it” provision similar to the site certificate application process. This may be unduly burdensome for “simple” amendments.

- Clarifying what “modifications” the Council can make at the contested case decision stage that would not require reissuing the proposed order and allowing another 30-day comment period.
- Making a contested case proceeding mandatory, eliminating the procedure for a Council decision about whether a contested case is warranted.
- Other changes requested by the Council.