



Oregon

John A. Kitzhaber, M.D., Governor



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Date: August 24, 2012

To: Energy Facility Siting Council

From: Todd Cornett, Siting Division Administrator
Jo Morgan, Policy Analyst

RE: Rulemaking Prioritization Recommendation (Information Item)

Staff Recommendation: Initiate Rulemaking on the Amendment Process

Background:

Several issues were identified during the May 11, 2012 EFSC meeting that are of the most pressing interest for the Council to address. These include:

1. **The Amendment Process:** Several recent proposed amendments have generated Council questions and concerns about the amendment process.
2. **Financial Assurance:** Staff has requested the Department of Justice review financial assurance for decommissioning standards to determine if EFSC and OPUC requirements are truly duplicative.
3. **Solar Jurisdictional Thresholds:** A recently convened Solar Work Group may address the EFSC jurisdictional threshold question, and fixing the jurisdictional conflict that appears in statute may require legislation. EFSC should wait until the Solar Work Group completes its initial work before attempting rulemaking on the issue or recommending a legislative concept.

During the prioritization process there were potential rulemaking items the Council did not consider a priority at this time. For future reference these are:

- Related or supporting facilities
- Energy generation areas
- Extensions for Notices of Intent
- Comments at Council meetings
- Energy Facility Siting standards
- Carbon dioxide standard

The Governor's draft 10 Year Energy Plan includes several action items that may result in EFSC rulemaking. Once the plan is finalized there will be further discussions about the nature and timing of any EFSC related rulemaking.

http://cms.oregon.gov/energy/Pages/Ten_Year_Energy_Plan_Draft.aspx

1. Landscape Level Planning
2. Strong Project Officer Model
3. Adjusting Jurisdictional Thresholds for Renewable Facilities
4. Amending the Balancing Rule

Next Steps: If EFSC is in agreement with the Amendment Process as being the priority for rulemaking, staff recommends the following process:

1. ODOE staff will begin policy analysis of amendment issues.
2. ODOE staff will host one or more workshops to discuss issues and policy options with stakeholders.
3. ODOE staff will summarize the workshop results and provide recommendations at a future Council's meeting.
4. EFSC will decide whether to authorize a formal rulemaking proceeding.