



Oregon

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To: Energy Facility Siting Council

From: Christopher M. Clark, Siting Policy Analyst and Rules Coordinator

Date: June 12, 2020

Subject: Agenda Item E (Possible Action Item):
Carbon Monetary Offset Rate Update – Review of Public Comments and
Consideration of Permanent Rules for June 25-26, 2020 Council Meeting.

Attachments: Attachment 1: Notice of Proposed Rulemaking
Attachment 2: Public Comments
Attachment 3: Staff Summary and Evaluation of Issues raised in Comments

RECOMMENDED COUNCIL ACTION

Staff recommends Council adopt permanent rules after fully considering all written and oral comments provided on the proposed rules and revising as needed to reduce significant adverse economic impact on small businesses, consistent with public health and safety.

BACKGROUND

At its April 24, 2020 meeting, the Council initiated rulemaking to increase the monetary offset rate for carbon dioxide emissions in OAR 345-024-0580 from \$1.90 to \$2.85 per short ton. The proposed rate increase was based on empirical evidence suggesting that the current monetary offset rate is less than one-half the average cost of offsets negotiated by The Climate Trust. The Council approved an accelerated timeline for this rulemaking consistent with the Governor's Executive Order 20-04. Under the accelerated timeline, staff provided early notice of the proposed rulemaking to the legislators described in ORS 183.335(15) on May 5, 2020.

A rulemaking advisory committee met to discuss the economic achievability and potential fiscal and economic impacts of the proposed increase on May 13, 2020. The Council considered the committee's feedback at its May 22, 2020 meeting, and found that the proposed rate increase was not likely to affect the economic achievability of the Council's Carbon Standard for natural gas-fired power plants. The Council also authorized staff to issue a Notice of Proposed Rulemaking to begin formal proceeding to adopt the rate increase. Staff filed the Notice with the Secretary of State on May 22, 2020. Staff posted a copy of the notice to its website and provided notice as required by ORS 183.335(1) and OAR 345-001-0000. For reference, the Notice is included as **Attachment 1** to this report.

CONSIDERATION OF PUBLIC COMMENTS

The Notice requested public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business. The Notice also informed the public of the opportunity to provide oral comment on the proposed rules at the hearing scheduled to begin on June 25, 2020 at 5:00 pm (Agenda Item B of this meeting). The public comment period closed at the end of the hearing.

The Council must consider fully any written or oral comments provided before the close of the public comment period. Comments submitted after the close of the public comment period may not be considered unless the Council decides to extend the comment period for all interested agencies and persons.

Staff will provide exact copies of all public comments received before the close of the public comment period to Council. A packet including all comments received before the publication date of this report are included in **Attachment 2**. The packet will be updated to include additional comments received before the close of the public comment period.

STAFF RECOMMENDATION

A document providing staff's summary of and recommended responses to the significant data, views, and arguments contained in the public comments is provided as **Attachment 3** to this staff report prior to the Council's consideration of permanent rules. This document may be revised to include and address additional comments as they are received.