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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 345
DEPARTMENT OF ENERGY
ENERGY FACILITY SITING COUNCIL

FILED
09/29/2020 1:44 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Safe Public Meetings and Hearings

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/22/2020 6:00 PM

The Agency requests 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.

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Filed By:
Christopher Clark
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 10/22/2020

TIME: 5:00 PM

OFFICER: Christopher Clark

ADDRESS: Remote Hearing

See Special Instructions

Salem, OR 97301

SPECIAL INSTRUCTIONS:

Join the Webinar (Recommended):

<https://tinyurl.com/EFSC10-22-20>

Join by Phone: 1-408-418-9388,

Access Code: 173 466 2608

NEED FOR THE RULE(S):

Some provisions of OAR chapter 345 require certain public meetings or hearings to be held in person, in the vicinity of a proposed or approved energy facility. Due to the ongoing spread of the novel coronavirus (COVID-19), in-person attendance at public meetings or hearings may pose a risk to public health and safety. Executive Order 20-16 had, in part, waived rules which required public meetings or hearings to be held in-person during the COVID-19 emergency period. Executive Order 20-16 was rescinded on September 1, 2020.

This rule is needed to replace the applicable provision of the Executive Order, and allow the Council to continue to operate, make decisions, and take testimony safely during the COVID-19 pandemic and other events, such as wildfires, flooding, or winter storms that may cause in-person attendance at or travel to a public meeting or hearing to present a risk to public health and safety or the health and safety of the participants.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Executive Order 20-16

Executive Order 20-38

2020 1st Special Session Oregon Laws Chapter 12

Documents are available from the Department upon request.

FISCAL AND ECONOMIC IMPACT:

While the rules could result in small decreases in costs of travel and lodging associated with Council meetings, the rule only applies in exceptional circumstances and therefore is not expected to result in a significant fiscal or economic impact.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) The rules apply to the Energy Facility Siting Council, which regulates energy facilities in Oregon. The rules are not expected to economically impact any agencies, units of local government, or members of the public. (2) No small businesses are likely to be subject to the rules. There are no expected reporting, recordkeeping, or administrative activities or costs that will be required to comply with the rule.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not specifically consulted in the development of these rules.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

Due to the limited scope and lack of expected fiscal impacts associated with the rules, a rulemaking advisory committee was not considered to be necessary for the development of the draft proposed rules.

ADOPT: 345-015-0003

RULE SUMMARY: Adoption of a new rule intended to allow the Council to waive any provision of rule requiring that a public meeting or public hearing be held in person or in a specific geographical area, if the Council finds that in-person attendance at the meeting or hearing would present a risk to public health or safety or the health and safety of the participants.

CHANGES TO RULE:

345-015-0003

Remote and Electronic Public Meeting and Hearings

(1) The Council or Chair may waive any provision of OAR chapter 345 requiring that a public meeting or public hearing be held in person or in a specific geographical area, if:

(a) The Council or Chair finds that in-person attendance at the meeting or hearing would present a risk to public health or safety or the health and safety of the participants;

(b) The public meeting or public hearing is held through the use of telephone or other electronic communication in accordance with ORS 192.610 to 192.690; and

(c) For public hearings, the Council provides an opportunity for submission of testimony by telephone, video, or through some other electronic or virtual means, or provides a means of submitting written testimony, including by

email or other electronic methods, that the Council may consider in a timely manner.

(2) This rule does not apply to:

(a) Any meeting or hearing otherwise required to be held in-person or in a specified geographic location by ORS chapter 469; or

(b) A contested case hearing held pursuant to ORS chapter 183 and OAR chapter 345.

Statutory/Other Authority: ORS 469.470

Statutes/Other Implemented: ORS 192.670