Oregon Department of ENERGY

Energy Facility Siting Council Meeting

Virtual Meeting

February 26, 2021
Starts at 8:30 a.m.
Opening Items:

- Call to Order
- Roll Call
- Announcements
Announcements:

• Reminder that this meeting is being held in its entirety via teleconference and webinar.

• Reminder to Council and to anyone addressing the Council to please remember to state your full name clearly, and do not use the speakerphone feature, as it will create feedback.

• You may sign up for email notices by clicking the link on the agenda or the Council webpage.

• You are also welcome to access the online mapping tool and any documents by visiting our website.
Announcements continued:

• Please silence your cell phones
• Please use the “Raise Your Hand” feature in Webex to speak during the public comment period, or press *3 to raise your hand if you are participating by telephone.
• Energy Facility Council meetings shall be conducted in a respectful and courteous manner where everyone is allowed to state their positions at the appropriate times consistent with Council rules and procedures. Willful accusatory, offensive, insulting, threatening, insolent, or slanderous comments which disrupt the Council meeting are not acceptable. Pursuant to Oregon Administrative Rule 345-011-0080, any person who engages in unacceptable conduct which disrupts the meeting may be expelled.
Agenda Item A

• January Meeting Minutes
• Council Secretary Report
Radioactive Materials Enforcement Rulemaking
Review of Public Comments & Consideration of Permanent Rules

February 26, 2021
Christopher M. Clark, Siting Policy Analyst & EFSC Rules Coordinator
Overview

- Rulemaking Background & Procedural History
- Review of Proposed Rules
- Consideration of Public Comments
- Council Decision on Permanent Rules
Rulemaking Background

• In May 2020, EFSC initiated review of rules for the enforcement of laws and rules governing the transport and disposal of radioactive materials and wastes.

• Objective is to protect public health and safety, and the environment by:
  • Incentivizing preventative measures.
  • Ensuring that radioactive materials or wastes are not improperly transported or disposed of in Oregon.
  • Requiring appropriate mitigation or penalties when a violation occurs.

• In December 2020, the Council approved proposed rules developed with the assistance of a RAC.

• Additional rulemaking will be needed if SB 246 is enacted.
Procedural History

<table>
<thead>
<tr>
<th>Permanent Rulemaking Steps</th>
<th>Completion Date</th>
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</thead>
<tbody>
<tr>
<td>Council initiation of rulemaking</td>
<td>May 21, 2020</td>
</tr>
<tr>
<td>RAC Meetings &amp; Public Workshop</td>
<td>June – December 2020</td>
</tr>
<tr>
<td>Council consideration of proposed rules &amp; authorization of Notice of Proposed Rulemaking</td>
<td>December 18, 2020</td>
</tr>
<tr>
<td>Staff issuance of Notice of Proposed Rulemaking</td>
<td>December 21, 2020</td>
</tr>
<tr>
<td>Rulemaking hearing</td>
<td>January 22, 2021</td>
</tr>
<tr>
<td>Last day for submission of written comments</td>
<td>February 10, 2021</td>
</tr>
<tr>
<td>Council review of public comments &amp; consideration of permanent rules</td>
<td>February 26, 2021</td>
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<tr>
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</tr>
<tr>
<td>Notice of Violation</td>
<td>Notice of Violation → Amended Notice of Violation</td>
</tr>
<tr>
<td>Classifications of Violations</td>
<td>Class II is default</td>
</tr>
<tr>
<td>Violations may be escalated</td>
<td></td>
</tr>
<tr>
<td>Response to Notice</td>
<td>Requires admission or denial</td>
</tr>
<tr>
<td>Civil Penalties</td>
<td>Available for Class I violations</td>
</tr>
<tr>
<td>Contested Cases</td>
<td>Available for Civil Penalties Conducted by Council</td>
</tr>
<tr>
<td>Final Order</td>
<td>Issued by Council, final order by default allowed</td>
</tr>
</tbody>
</table>
Calculation of Civil Penalty
OAR 345-029-0560

• **Step 1:** Determine Base Penalty Amount based on class/severity of violation
• **Step 2:** Apply aggravating/mitigating multipliers
• **Step 3:** Multiply by total days of violation/number of occurrences
  • $5 million maximum for a moderate violation; or
  • $25,000 maximum for a minor violation
• **Step 4:** Add amount for Economic Benefit
# Classification of Violations

## OAR 345-029-0530

<table>
<thead>
<tr>
<th>Class I</th>
<th>Class II</th>
<th>Class III</th>
</tr>
</thead>
</table>
| - Illegal disposal of radioactive waste  
- Failure to obtain an Oregon Radioactive Waste Material Transport Permit  
- Failure to report an incident involving radioactive materials  
- Failure to comply with an order of the Director or Council | - Failure to properly route shipments of spent nuclear fuel or radioactive materials  
- General violation of OAR 345-060 or terms of an Oregon Radioactive Materials Transport Permit | - Failure to give notice for inspection or schedule change of a radioactive materials shipment  
- Failure to maintain packaging, placarding, labeling, or shipment documentation for a radioactive materials shipment. |
Severity Determinations
OAR 345-029-0560(1)(b)

• **Major violations** include any violation determined to have caused, or having the potential to cause, a significant adverse impact on public health and safety, or the environment.

• **Moderate violations** include any violation determined to have caused, or having the potential to cause, no more than a minimal adverse impact on public health and safety or the environment, but could have the potential to cause a significant adverse impact on public health and safety or the environment if the physical conditions of the disposal did not limit pathways of exposure to human health or the environment.

• **Minor violations** include any violation having caused, or having the potential to cause, no more than a minimal adverse impact on public health and safety or the environment.
## Civil Penalty Assessment - Base Penalty Amounts

**OAR 345-029-0560(1)(c)**

<table>
<thead>
<tr>
<th>Class</th>
<th>Minor</th>
<th>Moderate</th>
<th>Major</th>
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</thead>
<tbody>
<tr>
<td>Class I</td>
<td>$1,000</td>
<td>$5,000</td>
<td>$10,000</td>
</tr>
<tr>
<td>Class II</td>
<td>$500</td>
<td>$2,500</td>
<td>$5,000</td>
</tr>
<tr>
<td>Class III</td>
<td></td>
<td>$500</td>
<td></td>
</tr>
</tbody>
</table>

*Note: All amounts are per occurrence or per day of violation.*
Summary of Public Comments

• Six Persons provided oral and/or written comments during the public comment period.

• One commenter supported adoption of rules as presented in the NOPR.

• No commenters opposed adoption of rules, although several specific issues and recommended changes were identified.

• Some commenters urged strengthening of current rules governing transport and disposal of radioactive materials and wastes.
Issue Summary: One commenter raised concerns that establishing two separate enforcement processes could be confusing and difficult to manage and recommended the Council amend the energy facility siting enforcement rules to align with the new rules.

Staff Recommendation:
• Make no additional substantive changes to the proposed OAR 345-029-0003 to 345-029-0100 at this time.
• Consider additional changes based on feedback from the 5-year review of the new radioactive materials enforcement rules.
Issue Summary: A commenter noted that section (2) of the proposed OAR 345-029-0520 appears to be missing.

Staff Recommendation: Correct the numbering error in OAR 345-029-0520 and references in OAR 345-029-0550 and 345-029-0555.
Issue Summary: A commenter raised concerns that the proposed definitions for “major”, “moderate”, and “minor” violations are not clear, and are not consistent with the definitions of those terms used in rules used by the Oregon Department of Environmental Quality (DEQ).

Staff Recommendation: Revise rules to more closely align with the language used by DEQ under OAR 340-012-0130 and to incorporate factors which will be used to make the determination (see pg. 6-7.)
Severity Determinations
OAR 345-029-0560(1)(b)

- **Major violations** include any violation determined to have caused, or having the potential to cause, a significant adverse impact on public health and safety, or the environment.

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- **Minor violations** include any violation having caused, or having the potential to cause, no more than a minimal adverse impact on public health and safety or the environment.
Issue Summary: A commenter raised concern that the reference to “multiple violations” in the proposed rule creates ambiguity regarding the assessment of civil penalties for violations that occur over more than one day.

Staff Recommendation: Revise the proposed language in OAR 345-029-0560(1)(d) as shown on Att. 3, page 8. Make no changes to section (2)(b).
Issue Summary: A commenter raised concerns that the proposed rule language may allow for a reduction of a penalty for voluntary reporting when a responsible party reports the conditions or circumstances because the violation was identified by a member of the public.

Staff Recommendation: No revisions are necessary.
Issue Summary: A commenter expressed concern that by not limiting the number of days of violation a civil penalty may be assessed for, the proposed rules could result in an extraordinary total penalty amount.

Staff Recommendation: No revisions are necessary.
Issue Summary: A commenter raised concern that the proposed rules do not provide a cap on the total amount that may be assessed for a major violation, which could include any violation having the potential to cause a significant adverse impact on public health, safety, or the environment, regardless of whether it actually has such impact.

Staff Recommendation: No revisions are necessary.
Council Decision on Permanent Rules

Option 1
Adopt Proposed Rules with Revisions based on Public Comment

Option 2
Adopt Proposed Rules as presented in the Notice of Proposed Rulemaking

Option 3
Take no action on Proposed Rules
Agenda Item C
(Hearing)

Shepherds Flat North - Council Review of Request for Amendment 3 to Transfer Certificate Holder Ownership

February 26, 2021
Ms. Marcia Grail, Council Chair
Shepherds Flat North - Council Review of Request for Amendment 3 to Transfer Certificate Holder Ownership

February 26, 2021
Chase McVeigh-Walker, Senior Siting Analyst and Sarah Esterson, Senior Policy Advisor, ODOE
Facility/Certificate Holder Overview

Facility Type: Wind (265 MW)
Facility Location: Gilliam County
Certificate Holder: North Hurlburt Wind, LLC
Site Certificate History: Original: 2008
                          AMD1 & AMD2: 2010 & 2019
Request to Transfer Certificate Holder Ownership

Overview

New Owner: BEP SF Holdings, LLC
New Owner Family Company: Brookfield Renewable Partners L.P
Description: Large, publicly traded renewable energy company
## Transfer Procedural History

<table>
<thead>
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<th>Requirement</th>
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<td>Council</td>
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</table>
Review of Comments

PLACEHOLDER SLIDE
- No comments received to date
Transferring Review Process
OAR 345-027-0400

Council must find that the new owner complies with:

Organizational Expertise standard

• (OAR 345-022-0010)

Retirement and Financial Assurance standard

• (OAR 345-022-0050)

Standards for Facilities that Emit Carbon Dioxide – Monetary Path Payment Requirement (If applicable)

• (OAR 345-024-0710(1))
Organizational Expertise

Experience in construction/operation of wind/other energy facilities
- BEP SF Holdings, LLC: 120 years, 7,300 MWs, 34 states
- 5 personnel with over 70 years of combined experience

Past Performance
- Regulatory compliance: 8 issues over last 10 years
- Mitigation experience: California, Hawaii

Previously Imposed Conditions
Retirement and Financial Assurance

• Ability to Restore Site to Useful, Nonhazardous Condition
  • No changes in previously identified tasks/actions
• Ability to Obtain Bond/Letter of Credit ($8.6 million)
  • Current, active LOC from Landesbank Hessen-Thuringen
• Legal Authority to Construct/Operate Facility
  • Legal opinion from King & Spalding
Council Action – Approval or Denial
Agenda Item D
(Action Item)

Trojan ISFSI
License Renewal Update and Initiation of Rulemaking

February 26, 2021
Christopher Clark, Siting Policy Analyst & EFSC Rules Coordinator
Duane Kilsdonk, Compliance Officer
Overview

• Background on Trojan Site
• Update on NRC ISFSI License Renewal Process
• Recommendations for Initiation of Rulemaking
  • Need and Authority
  • Scope and Objectives
  • Fiscal Impacts & Stakeholder Input
  • Projected Timeline
• Council Deliberation
Trojan Nuclear Power Plant

• Trojan was an 1,130-MW Nuclear Power Plant located in Columbia County, Oregon that operated from 1976 to 1993.

• The site certificate for Trojan was executed by Governor Tom McCall in 1971. PGE is the certificate holder.

• As part of the power plant decommissioning, all spent nuclear fuel from the plant transferred to an Independent Spent Fuel Storage Installation (ISFSI)
Trojan ISFSI

- The ISFSI is intended to provide temporary storage of spent nuclear fuel until it is removed for permanent storage by the federal government.

- The ISFSI consists of:
  - Concrete Pad
  - 34 Concrete Casks containing loaded Multipurpose Containers (MPCs)
  - Transfer Station & Transfer Cask
  - Security Equipment
  - Ancillary Facilities
Federal License Renewal Process


2017: PGE submits License Renewal Application requesting to extend the license for another 40-years.

2019: NRC issues renewed license:
   • No major alterations or repairs proposed as part of renewal
   • The revised Safety Analysis Report (SAR) establishes new Aging Management Programs
   • Renewed license expires on March 31, 2059

2022: Implementation of Aging Management Programs begins.
Aging Management Programs

• The revised SAR specifies Aging Management Programs for the MPCs, concrete Casks, transfer cask, and transfer station.

• The Aging Management Programs will replace the Structural Inspection Program referred to under OAR 345-026-0390(5).

• The scope and timing of inspections will be similar, but there will be some changes to procedures, acceptance criteria, and potential corrective actions.
ODOE Concrete Inspection

- Field Visit for Structural Review
- Document Review
- 2019 Concrete Inspection Report

Top view of one cask

Inspection included detailed measurement of selected surface scaling, pitting on concrete.
Rulemaking Process

- Initiation of rulemaking
- Development of draft proposed rules
- Notice of Proposed Rulemaking
- Formal public comment period
- Adoption of permanent rules
Need and Authority for Rulemaking

• The site certificate does not contain conditions, instead it requires the certificate holder to abide by the Council’s rules.

• Rules for monitoring environmental and ecological effects of the ISFSI are found under OAR 345-026-0300 to 345-026-0390.

• Rulemaking is needed to address the new aging management activities, and to ensure consistency with current federal safety requirements and guidelines.
Scope and Objectives

• Recommended scope is limited to changes needed to:
  • Address terms and conditions of the renewed ISFSI license
  • Incorporate changes to applicable state and federal law or policy
  • Remove unnecessary or outdated references
  • Clarify or improve consistency of rule language

• Recommended Objectives are to:
  • Ensure the protection of public health and safety and the environment
  • Ensure adequate monitoring and safety programs are in place
  • Reduce costs of compliance for the certificate holder where possible
Fiscal Impacts & Stakeholder Input

• Rules apply specifically to Trojan ISFSI and the Certificate Holder
  • Rulemaking is not expected to result in any significant fiscal or economic impacts
  • Rulemaking expenses will be recovered under ORS 469.421(1)(f)

• Staff proposes to solicit input on updated evaluation and draft rule revisions from the certificate holder and independent technical experts
  • The evaluation and draft proposed rules would be made available for public review prior to the Council’s consideration
  • A formal public comment period and rulemaking hearing would occur after proposed rules are approved by the Council
# Projected Timeline

<table>
<thead>
<tr>
<th>Event</th>
<th>Timeline</th>
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<tbody>
<tr>
<td>Council initiates rulemaking</td>
<td>February 2021</td>
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<tr>
<td>Staff prepares revised evaluation and draft proposed rules</td>
<td>March - June 2021</td>
</tr>
<tr>
<td>Council considers draft proposed rules/ issues Notice of Proposed Rulemaking</td>
<td>July 2021</td>
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<tr>
<td>Public Comment Period/ Rulemaking Hearing</td>
<td>August – October 2021</td>
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<tr>
<td>Council Consideration of Permanent Rules</td>
<td>October 2021 (or later)</td>
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## Council Deliberation

<table>
<thead>
<tr>
<th>Option 1</th>
<th>Option 2</th>
<th>Option 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initiate rulemaking as recommended by Staff</td>
<td>Initiate rulemaking, with changes.</td>
<td>Reject recommendation to initiate rulemaking.</td>
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</tbody>
</table>
Agenda Item E
(Hearing)

Shepherds Flat South - Council Review of Request for Amendment 3 to Transfer Certificate Holder Ownership

February 26, 2021
Ms. Marcia Grail, Council Chair
Agenda Item E
(Action Item)

Shepherds Flat South - Council Review of Request for Amendment 3 to Transfer Certificate Holder Ownership

February 26, 2021
Chase McVeigh-Walker, Senior Siting Analyst, ODOE
Facility/Certificate Holder Overview

Facility Type: Wind (290 MW)
Facility Location: Gilliam and Morrow counties
Certificate Holder: Horseshoe Bend Wind, LLC
Site Certificate History: Original: 2008
                      AMD1 & AMD2: 2010 & 2020
Request to Transfer Certificate Holder Ownership

Overview

New Owner: BEP SF Holdings, LLC
New Owner Family Company: Brookfield Renewable Partners L.P
Description: Large, publicly traded renewable energy company
## Transfer Procedural History

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Review of Comments

PLACEHOLDER SLIDE
- No comments received to date
Council must find that the new owner complies with:

- **Organizational Expertise standard**
  - (OAR 345-022-0010)

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

- **Standards for Facilities that Emit Carbon Dioxide – Monetary Path Payment Requirement (If applicable)**
  - (OAR 345-024-0710(1))
Organizational Expertise

Experience in construction/operation of wind/other energy facilities
- BEP SF Holdings, LLC: 120 years, 7,300 MWs, 34 states
- 5 personnel with over 70 years of combined experience

Past Performance
- Regulatory compliance: 8 issues over last 10 years
- Mitigation experience: California, Hawaii

Previously Imposed Conditions
Retirement and Financial Assurance

• Ability to Restore Site to Useful, Nonhazardous Condition
  • No changes in previously identified tasks/actions

• Ability to Obtain Bond/Letter of Credit ($10.25 million)
  • Current, active LOC from Landesbank Hessen-Thuringen

• Legal Authority to Construct/Operate Facility
  • Legal opinion from King & Spalding
Council Action – Approval or Denial
Montague Wind Power Facility - Council Review of Request to Amend Wildlife Monitoring and Mitigation Plan

February 26, 2021
Sarah Esterson, Senior Policy Advisor, ODOE
Facility Overview

Certificate Holder: Montague Wind Power Facility LLC

Parent Company: Avangrid Renewables, LLC

Type of Facility: 200 MW wind facility (56 wind turbines)

Facility Location: Gilliam County
Request to Amend WMMP

Post Construction Bird/Bat Fatality Monitoring (PCFM) Program

- More detail on the standardized carcass search methods and search strategy proposed for each target size classes;
- Update searcher efficiency trial language and update number of carcasses placed for each target size class;
- Update incidental finds language to clarify how those finds would be incorporated into fatality rates;
- Update the fatality estimator from Shoenfeld to the United States Geological Survey’s Generalized Mortality Estimator (GenEst) tool
Staff Recommendation

Process
• ODOE and certificate holder consulted with ODFW on proposed changes
• ODOE reviewed literature and GenEst (same as previously reviewed by ODOE, ODFW and Council for WREFI/WREFII)

Recommendations
• Based on review, ODOE recommends approval of the updated methodology for the PCFM Program, and approval of amended WMMP
Shepherds Flat Central - Council Review of Request for Amendment 4 to Transfer Certificate Holder Ownership

February 26, 2021
Ms. Marcia Grail, Council Chair
Shepherds Flat Central - Council Review of Request for Amendment 4 to Transfer Certificate Holder Ownership

February 26, 2021
Sarah Esterson, Senior Policy Advisor, ODOE
<table>
<thead>
<tr>
<th>Facility Type:</th>
<th>Wind (290 MW)</th>
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<tbody>
<tr>
<td>Facility Location:</td>
<td>Gilliam and Morrow counties</td>
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<tr>
<td>Certificate Holder:</td>
<td>South Hurlburt Wind, LLC</td>
</tr>
<tr>
<td>Site Certificate History:</td>
<td>Original: 2008</td>
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<tr>
<td></td>
<td>AMD1 – AMD3: 2010 &amp; 2020</td>
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<tr>
<td>Overview</td>
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<tr>
<td>New Owner:</td>
<td>BEP SF Holdings, LLC</td>
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<tr>
<td>New Owner Family Company:</td>
<td>Brookfield Renewable Partners L.P</td>
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Review of Comments

PLACEHOLDER SLIDE
- 1 public comment received in support of transfer
Transfer Review Process
OAR 345-027-0400

Council must find that the new owner complies with:

Organizational Expertise standard
• (OAR 345-022-0010)

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

Standards for Facilities that Emit Carbon Dioxide – Monetary Path Payment Requirement (If applicable)
• (OAR 345-024-0710(1))
Organizational Expertise

Experience in construction/operation of wind/other energy facilities
  • BEP SF Holdings, LLC: 120 years, 7,300 MWs, 34 states
  • 5 personnel with over 70 years of combined experience

Past Performance
  • Regulatory compliance: 8 issues over last 10 years
  • Mitigation experience: California, Hawaii

Previously Imposed Conditions
Retirement and Financial Assurance

• Ability to Restore Site to Useful, Nonhazardous Condition
  • No changes in previously identified tasks/actions
• Ability to Obtain Bond/Letter of Credit ($9.0 million)
  • Current, active LOC from Landesbank Hessen-Thuringen
• Legal Authority to Construct/Operate Facility
  • Legal opinion from King & Spalding
Council Action – Approval or Denial
Agenda Item H

PUBLIC COMMENT

Phone Commenters: Press *3 to raise your hand to make comment, and *3 to lower your hand after you’ve made your comment.

Webinar Commenters: Open the Participant list, hover over your name and click on the “Raise Your Hand icon”.
How to “Raise Hand” in Webex

Step 1. Click the “Participants” icon in the bottom right corner of the Webex window.

Step 2. Click the “Hand” icon in the bottom right corner of the Participants panel. Click the icon again to lower your hand.
How to Raise Your Hand in Webex:

**Webinar Participants**
The bottom right of the main window is a set of icons:  
Click on “Participants”
The bottom right of the participant window is a hand icon, click on the hand:  
Clicking on it again will lower your hand.

**Phone Participants**
Press *3 on your telephone keypad to raise your hand.
Press *3 again on your telephone keypad to lower your hand.
Legislative Updates

February 26, 2021
Todd Cornett, Assistant Director, ODOE/Council Secretary
&
Christy Splitt, Government Relations Coordinator, ODOE
# 2021 Legislative Session – EFSC Related Bills

<table>
<thead>
<tr>
<th>Bill #</th>
<th>Bill Information</th>
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| HB 2063 | **Position:** For  **Priority:** 1  **Relating To:** Standby Generators  
**Description:** Eliminates need to receive an exemption from EFSC for standby generation facilities.  
**Status:** Public hearing held in House Energy & Environment Committee on 2/24/2021 |
| HB 2064 | **Position:** For  **Priority:** 1  **Relating To:** A quorum of the Energy Facility Siting Council  
**Description:** Reduces EFSC quorum from 5 – 4  
**Status:** Public hearing held in House Rules Committee on 2/23/2021 |
| HB 2691 | **Position:** Neutral  **Priority:** 2  **Relating To:** Prevention of avian deaths at wind energy facilities  
**Description:** Directs ODOE to conduct study to identify techniques to increase visibility to birds of rotor blades on wind energy facilities and evaluate suitability of techniques for use in Oregon  
**Status:** No public hearing scheduled yet |
<table>
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<tr>
<th>Bill #</th>
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<tbody>
<tr>
<td><strong>SB 353</strong></td>
<td><strong>Position:</strong> Neutral  <strong>Priority:</strong> 2  <strong>Relating To:</strong> Energy Facility Siting Council</td>
</tr>
<tr>
<td><strong>Description</strong></td>
<td>Requires State Department of Energy to conduct study related to Energy Facility Siting Council and report findings to interim committees of Legislative Assembly by September 15, 2022</td>
</tr>
<tr>
<td><strong>Status:</strong></td>
<td>No public hearing scheduled yet</td>
</tr>
<tr>
<td><strong>SB 246</strong></td>
<td><strong>Position:</strong> For  <strong>Priority:</strong> 1  <strong>Relating To:</strong> Radioactive Material</td>
</tr>
<tr>
<td><strong>Description</strong></td>
<td>Requires EFSC to adopt standards and rules necessary to prevent disposal of radioactive waste in Oregon. Provides Director of State Department of Energy and council additional authority for administration and enforcement of laws related to disposal of radioactive waste.</td>
</tr>
<tr>
<td><strong>Status:</strong></td>
<td>Public hearings held in Senate Energy &amp; Environment Committee on 2/04/2021 and 2/18/2021. Passed out of committee with unanimous vote.</td>
</tr>
<tr>
<td><strong>HB 2831</strong></td>
<td>House version of SB 246. No public hearing schedule yet</td>
</tr>
</tbody>
</table>
# 2021 Legislative Session – EFSC Related Bills

<table>
<thead>
<tr>
<th>Bill #</th>
<th>Bill Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>HB 2692</td>
<td><strong>Position:</strong> Neutral  <strong>Priority:</strong> 2  <strong>Relating To:</strong> Energy</td>
</tr>
<tr>
<td></td>
<td><strong>Description:</strong> Small modular reactor exemptions. Exempt's issuance of site certificate for small modular reactors from requirement that proposal by EFSC to issue site certificate for nuclear-fueled thermal power plant must be approved by voters.</td>
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<tr>
<td></td>
<td><strong>Status:</strong> No public hearing scheduled yet</td>
</tr>
<tr>
<td>HB 2332</td>
<td><strong>Position:</strong> Neutral  <strong>Priority:</strong> 2  <strong>Relating To:</strong> Energy</td>
</tr>
<tr>
<td></td>
<td><strong>Description:</strong> Nuclear Waste Repository Licensing Requirements - Repeals provisions requiring that before issuing site certificate for nuclear-fueled thermal power plant, EFSC must find that repository for disposal of waste produced by plant is licensed to operate by federal government.</td>
</tr>
<tr>
<td></td>
<td><strong>Status:</strong> No public hearing scheduled yet</td>
</tr>
<tr>
<td>Bill #</td>
<td>Bill Information</td>
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</tr>
<tr>
<td>SB 360</td>
<td><strong>Position:</strong> Neutral  <strong>Priority:</strong> 2  <strong>Relating To:</strong> Small nuclear reactors</td>
</tr>
<tr>
<td></td>
<td><strong>Description</strong> - Exempts small modular reactors from certain siting restrictions that apply to nuclear-fueled thermal power plants. Requires small modular reactors to be sited in city or county where electors of city or county have approved small modular reactors being located in city or county. Requires emergency planning zones for small modular reactors to be located in county where electors of county have approved small modular reactors being located in county. Requires proposed disposal of high-level radioactive waste by small modular reactor to comport with process approved or adopted by United States Nuclear Regulatory Commission.</td>
</tr>
<tr>
<td></td>
<td><strong>Status:</strong> No public hearing scheduled yet</td>
</tr>
<tr>
<td>HB 2520</td>
<td><strong>Position:</strong> Neutral  <strong>Priority:</strong> 2  <strong>Relating To:</strong> The adoption of energy policies into statewide land use planning goals</td>
</tr>
<tr>
<td></td>
<td><strong>Description</strong> - Requires Land Conservation and Development Commission to amend statewide land use planning goals related to energy conservation to incorporate development of renewable energy facilities and reduction of greenhouse gas emissions and to match state energy policies.</td>
</tr>
<tr>
<td></td>
<td><strong>Status:</strong> No public hearing scheduled yet</td>
</tr>
</tbody>
</table>
### 2021 Legislative Session – EFSC Related Bills

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</table>
| HB 3180 | **Position:** Neutral  **Priority:** 2  **Relating To:** Utilities  
**Description** - Requires delivery of certain land use notices to property owners and to properties within wider geographic range.  
**Status:** No public hearing scheduled yet. |
| HB 2109 | **Position:** Neutral  **Priority:** 3  **Relating To:** County land use permits to establish renewable energy facilities; amending ORS 215.446  
**Description** – Modifies definition of “renewable energy facility” for purposes of certain energy facilities. This is a fix to HB 2329 in the 2019 session to preclude M56 notification by DLCD.  
**Status:** Public hearing scheduled in House Rules Committee on 3/1/2021 |
| SB 287 | **Position:** Neutral  **Priority:** 3  **Relating To:** Wildfire  
**Description** – Requires that electrical companies and consumer-owned utilities have wildfire plans based on best practices.  
**Status:** No public hearing scheduled yet. |
### Bill # | Bill Description
--- | ---
**SB 5415**<br>WA EFSEC | • Allows clean energy projects to opt in to the Energy Facility Site Evaluation Council (EFSEC) review and certification process (including energy storage, biofuel processing, natural gas replacement, clean energy manufacturing)

• EFSEC may waive the required adjudicative proceeding if it determines genuine issues of fact do not exist with the application for site certification and the application is consistent and in compliance with local land-use laws.

• Creates a least-conflict priority clean energy project siting program.

• Requires a list of mitigation measures for likely environmental impacts of clean energy projects seeking EFSEC certification.
The Oregon Department of Energy helps Oregonians make informed decisions and maintain a resilient and affordable energy system. We advance solutions to shape an equitable clean energy transition, protect the environment and public health, and responsibly balance energy needs and impacts for current and future generations.

On behalf of Oregonians across the state, the Oregon Department of Energy achieves its mission by providing:

- A Central Repository of Energy Data, Information, and Analysis
- A Venue for Problem-Solving Oregon's Energy Challenges
- Energy Education and Technical Assistance
- Regulation and Oversight
- Energy Programs and Activities
Resource adequacy ensures there are sufficient resources available to meet electricity needs. As more coal plants head toward retirement and renewable energy facilities come online, addressing resource adequacy will become even more important.

- Energy 101: Clean & Renewable Standards
- Policy Brief: Renewable & Zero Emission Standards

Energy 101: Resource Adequacy
- Policy Brief: Resource Adequacy
Key Considerations for a Clean Energy Standard

• How should equity be centered?
• How can the policy be designed to maximize cost effectiveness?
• What should be the final target date?
• Which electricity generation resources should be eligible?
• How can the policy ensure enough electricity to meet demand at all times?
• Which entities should be subject to a standard?
2021 Legislative Session – Energy Big Picture

- Clean Energy Standard
  - HB 2995, HB 3180, SB 390
- Transportation Electrification
  - *too many to number*, HB 2165 (TE Omnibus)
- Public Purpose Charge Renewal
  - HB 3141
- Energy Efficiency
  - HB 2062 (Product Standards), HB 2398 (Reach Code), HB 2842 (“Healthy Homes”)
2021 Legislative Session – Energy Big Picture

**Broad Theme: Energy Equity**

- Energy Affordability (HB 2475)
- “100% Clean Energy for All” (HB 2995)
- “Healthy Homes” (HB 2842)
- Various Bills Requiring Labor Standards and Equity Considerations
2021 Legislative Session – Big Picture Issues

- COVID-19 Recovery
- Equity and Racial Justice
- Wildfire Recovery and Preparedness
- Redistricting
- Ballot Measure Implementation
- Budget

...and now, Ice Storm Recovery and Preparedness
Questions?

Contact
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Government Affairs Coordinator
christy.splitt@oregon.gov
503-510-4472
EFSC Member Terms

February 26, 2021
Patrick G. Rowe, Senior AAG, Oregon DOJ
ORS 469.450

• (2) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment, but no member shall serve more than two full terms. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.
Oregon Constitution

• Article XV, Section 1. Officers to hold office until successors elected; exceptions; effect on defeated incumbent. (1) All officers, except members of the Legislative Assembly and incumbents who seek reelection and are defeated, shall hold their offices until their successors are elected, and qualified. . . .
“The word ‘elect’ simply means to pick out, to select from among a number, or to make choice of, and is synonymous with the words ‘choose,’ ‘prefer,’ ‘select,’ and it was evidently used in this sense in the constitution.” Id. at 33, 54 P. 351
“... it is settled law in this state that public officers continue in office after the expiration of their official terms until their successors are duly qualified, and that this provision of the constitution is applicable to all public officers of this state, whether elective or appointive.” Id. at 355, 111 P.2d 1023-1024.
State ex rel. Everding v. Simon
20 Or. 365, 26 P. 170 (1891)

The court concluded that, because no qualified successor had been elected or appointed under existing law, Article XV, section 1, gave the appointed incumbent the right to hold over.

“The reason of this rule is that public policy requires that the duties of the office be performed, and it is better that the incumbent should continue in the office and in the performance of its duties than that an interregnum* should occur. It conserves the public interests by preserving the methods and instrumentalities by which alone public business can be transacted; while the opposite rule, when pushed to its consequences, might result in the suspension of business in many of the departments of public service.”
"... the period between the expiration of his term and the qualification of his successor is as much a part of the incumbent's term of office as the fixed statutory period..." Id. at 357, 111 P.2d, 1024.
The governor appointed Mr. Michael Powell to a four-year term as a commissioner of the Port of Portland in 1993, and the Senate confirmed that appointment.

In 1997, the governor reappointed Powell to a second term but the Senate voted not to confirm Powell for that second term.

The governor then reappointed Powell again, but the Senate took no action on the second reappointment.

The Senate sued Mr. Powell and the Governor’s office intervened in the lawsuit, siding with Mr. Powell.
“We conclude that Article XV, section 1, confers a ‘right’ on an incumbent to hold office beyond the term of office, unless one or more relevant circumstances—such as the officer's resignation or death—is present.”

Id. at 93, 15 P.3d 60.
“Article XV, section 1, assures that no interregnum occurs when a successor to public office, whether elected or appointed, is unable to take office. Specifically, the incumbent may hold over and no vacancy results. [Citations omitted]. The constitutional holdover provision makes no distinction between incumbents, like Powell, who are reappointed and incumbents who are to be succeeded by another. Thus, we conclude it applies equally in both circumstances.”

Id. at 96, 15 P.3d 62.
BREAK
Council Deliberation
Adjourn