



Oregon

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To: Energy Facility Siting Council

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

Date: October 8, 2021

Subject: Agenda Item F (Action Item): Consideration of Proposed Rules for the Trojan Independent Spent Fuel Storage Installation Rulemaking for the October 22, 2021 Council Meeting.

Attachments: Attachment 1: Trojan ISFSI License Renewal Staff Evaluation
Attachment 2: Draft Notice of Proposed Rulemaking

STAFF RECOMMENDATION

Staff recommends Council initiate formal proceedings to amend the administrative rules related to the Trojan Independent Spent Fuel Storage Installation (ISFSI) in OAR chapter 345, divisions 026 and 070, and requests authorization to issue a Notice of Proposed Rulemaking, as presented in Attachment 2.

BACKGROUND

The Trojan Nuclear Power Plant was a thermal nuclear plant located near the City of Rainier in Columbia County, Oregon that operated from 1976 to 1993. During decommissioning of the power plant, the certificate holder, Portland General Electric (PGE), transferred the spent nuclear fuel generated during the power plant's 17 years of operation to dry storage at an Independent Spent Fuel Storage Installation (ISFSI) constructed on a portion of the Trojan site. The ISFSI is intended to provide temporary storage of the spent nuclear fuel until the federal government takes possession of it for permanent disposal as required by the Nuclear Waste Policy Act of 1982.

The U.S. Nuclear Regulatory Commission (NRC), which regulates nuclear power plants and nuclear installations at the federal level, originally granted PGE a 20-year operating license for the ISFSI. Because there is still no permanent federal repository for spent nuclear fuel and other waste materials from commercial reactors, Portland General Electric (PGE) requested the NRC renew the license and authorize PGE to continue operating the ISFSI for an additional 40 years. The NRC approved the renewed license on August 9, 2019.

At its February 26, 2021 meeting, the Council initiated rulemaking to update the Council's rules under OAR 345-026-0170(2) and 345-026-0300 through 345-026-0390 to ensure the rules

address changes to the terms and conditions of the renewed operating license, to incorporate changes to applicable state and federal policy, regulations, and safety guidelines since the rules were last updated, and to remove any unnecessary or outdated references to external documents. Since that time, staff conducted a comprehensive evaluation of the terms and conditions of the renewed license and identified proposed changes to the rules in OAR chapter 345, division 026 and 070 to ensure the Council's rules are consistent with current federal regulations and the requirements of the renewed license issued by the Nuclear Regulatory Commission. The full staff evaluation, including draft proposed rules, is Attachment 1 to this staff report.

SUMMARY OF DRAFT PROPOSED RULES

As described in the staff evaluation, no major alterations or repairs to the ISFSI were proposed or authorized as part of the license renewal process, but some changes to the terms and conditions of the ISFSI license and its associated Safety Analysis Report (SAR) were made. Of note, the revised SAR includes a new Aging Management Review that identifies how aging could affect ISFSI structures, systems, and components over time and proposed programs and describes activities to ensure the spent nuclear fuel can continue to be safely stored during the renewal term.

The Department's analysis of the provisions of the license renewal application, revised Safety Analysis Report, and the documentation of NRC's evaluation found that the license renewal process did not result in reductions to commitments or programs described in staff's previous evaluations of the ISFSI, and that while the parameters of some of the analysis have changed, there were no changes to the underlying design or assumptions that would affect the certificate holders compliance with OAR 345-026-0300 to 345-026-0390. Staff also found that the Aging Management Programs proposed by the certificate holder provide reasonable assurances that the ISFSI can continue to operate safely over the period of extended operation.

While no compliance issues were identified, staff does recommend that rule changes are needed to ensure that regulatory decisions regarding the ISFSI in the future are based on the most current information, and are consistent with changes in federal regulations that have occurred in the nearly 20 years since the staff published its 2002 Staff Evaluation. In general, these changes include:

- Clarifying the applicability of OAR 345-026-0300 to 345-026-0390 to the Trojan ISFSI specifically, and consolidating rules where possible.
- Removing references to the 2002 Staff Evaluation and previous versions of the ISFSI Safety Analysis Report as the regulatory basis for decisions regarding the ISFSI.
- Updating references to federal regulations, or replacing them with specific criteria, where appropriate.
- Aligning criteria for when Council's approval and review is required with federal regulations.
- Replacing requirements for the Structural Inspection Program with the new Aging Management Programs.

Draft proposed rules reflecting these changes are included in the draft Notice of Proposed Rulemaking included as Attachment 2 to this Staff Report.

Potential Fiscal and Economic Impacts on stakeholders

The rules under consideration apply specifically to the Trojan ISFSI and its certificate holder, Portland General Electric. The Department does not expect to establish any new monitoring or reporting requirements as part of this rulemaking other than those required by the NRC under the terms and conditions of the revised Safety Analysis Report. Because no new requirements are expected this rulemaking is not expected to result in any significant fiscal or economic impacts to the certificate holder. We note that the expenses incurred by the council during this rulemaking will be recovered from the certificate holder as provided under ORS 469.421(1)(f). Some of these costs may be offset by reducing the need for future review of archival information to interpret, apply, and enforce the rules.

Stakeholder input

Because the rules under consideration apply specifically to the Trojan ISFSI and require the review and application of highly technical and potentially sensitive information, staff solicited written input on the Staff Evaluation and draft proposed rules from the certificate holder and an independent technical expert to assist in the development of an update. Staff recommends that Council schedule a rulemaking hearing for the November Council Meeting as part of the formal public comment period on the proposed rules to provide the opportunity for persons interested in this rulemaking with the opportunity to provide oral comment to the Council. In addition, staff recommends the Council accept written comments on the proposed rules until December 10, 2021.

Projected Timeline

Staff have revised the projected timeline for this rulemaking project based on the recommendations above. The projected timeline would allow for the adoption of permanent rules prior to the certificate holder’s implementation of the new Aging Management Programs in 2022.

Projected Rulemaking Timeline	
Council Initiates Rulemaking	February 26, 2021
Development of Proposed Rules	February – September 2021
Council Considers Draft Proposed Rules and Issues Notice of Proposed Rulemaking	October 22, 2021
Public Comment Period on Proposed Rules	October 22, 2021 – December 10, 2021
Rulemaking Hearing	November 18, 2021
Council Consideration of Permanent Rules	December 17, 2021
Permanent Rules Filed and Effective	December 22, 2021