



Oregon

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To: Energy Facility Siting Council

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

Date: November 5, 2021

Subject: Agenda Item B (Hearing): Trojan ISFSI Rulemaking Hearing for the November 18-19, 2021 EFSC Meeting

Attachment: Notice of Proposed Rulemaking

SUMMARY

The purpose of this rulemaking hearing is to take public comment on proposed updates to rules for the Trojan Independent Spent Fuel Storage Installation under OAR 345-026-0170 to 345-026-0390 and 345-070. The proposed rule language and associated statements of need and fiscal impact are provided in the Notice of Proposed Rulemaking attached to this Staff Report. In addition to the opportunity to provide oral comments at the hearing, the Council will accept written comments on the proposed rules until 5:00 pm on December 10, 2021.

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. 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.

At its October 22, 2021 meeting, the Council initiated formal rulemaking proceedings to adopt staff's recommended rule revisions. 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.

The proposed rule language and associated statements of need and fiscal impact are provided in the Notice of Proposed Rulemaking attached to this Staff Report.

PUBLIC COMMENTS AND CONDUCT OF RULEMAKING HEARING

The Notice of Proposed Rulemaking establishes a formal public comment period on the proposed rules and schedules a rulemaking hearing to begin at 5:30 pm on November 18, 2021. The purpose of the hearing is to take public comment on the Council's proposed rule, including any questions, concerns, or support, the public may have about the proposed rule language. In particular, the Council invites 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 hearing will be conducted by the Council's Rules Coordinator. The Council will not respond to questions or comments during the hearing but may ask commenters clarifying questions.

In addition to the opportunity to provide oral comments at this hearing, the Council will accept written comments on the proposed rules until 5:00 pm on December 10, 2021, which is the close of the public comment period. Information about how interested members of the public may submit written public comment is provided in the attached Notice of Proposed Rulemaking, and on the Council's rulemaking webpage: www.tinyurl.com/EFSCRulemaking.