



# Oregon

Kate Brown, Governor



550 Capitol St. NE  
Salem, OR 97301  
Phone: 503-378-4040  
Toll Free: 1-800-221-8035  
FAX: 503-373-7806  
[www.oregon.gov/energy](http://www.oregon.gov/energy)

**To:** Energy Facility Siting Council

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

**Date:** December 3, 2021

**Subject:** Agenda Item D (Action Item): Trojan ISFSI Rulemaking – Adoption of Permanent Rules for the December 16-17, 2021 EFSC Meeting

**Attachments:** 1. Notice of Proposed Rulemaking  
2. Report on Public Comments (to be provided to Council in advance of EFSC meeting, if received)

---

## SUMMARY

Staff recommends that the Council adopt updates to the rules for the Trojan Independent Spent Fuel Installation (ISFSI) under OAR 345-026-0170 to 345-026-0390 and 345-070 as permanent rules, to be effective upon filing.

## 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.

#### **HEARING REPORT AND PUBLIC COMMENT**

The Notice of Proposed Rulemaking requested public comment on the rules, including whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

As part of the comment period, the Notice scheduled a rulemaking hearing for November 18, 2021 at 5:30 pm. After a brief introduction, Christopher Clark, the Council's Rules Coordinator, opened the hearing at 5:57 pm. Mr. Rich George, legal counsel for Portland General Electric Company (PGE), appeared at the hearing and explained that to the extent PGE had comments it would provide them in writing by the comment deadline. Mr. Clark confirmed that there were no additional comments and closed the Trojan ISFSI Rulemaking Hearing at 6:01.

In addition to the opportunity to provide oral comments at this hearing, the Notice specified that the Council would accept written comments on the proposed rules until 5:00 pm on December 10, 2021. Staff will provide the Council with exact copies of any written comments received before that time, but no written comments had been received as of the date of publication of this report.

**ADOPTION OF PERMANENT RULES**

After considering any public comments received before the close of the public comment period, staff recommends that the Council adopt updates to the rules for the Trojan Independent Spent Fuel Installation (ISFSI) under OAR 345-026-0170 to 345-026-0390 and 345-070 as permanent rules, to be effective upon filing.

Staff will provide a report on any public comments received and final recommendations for permanent rules after the close of the public comment periods.