

# Attachment 3

**Comment Date**

1/17/2025

**source**

portal

**Siting Project Phase**

FORMAL RULEMAKING

## Comment Details

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**Rule/Rule Section**

OAR 345 Rulemaking Phase 2

## Comment

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I believe Oregon DOE staff has effectively moved application information requirements into more appropriate subsections. I support Phase 2 adoption because it appears to conform and align with ORS 469.470. As proposed/presented, the rulemaking advances the public good, and the language edits/clean-up appear very user-friendly for all participants from developers to regulators and covered electricity service suppliers to small businesses and local community groups. Good job!

BEFORE THE OREGON DEPARTMENT OF ENERGY  
ENERGY FACILITY SITING COUNCIL

In the Matter of Notice of Proposed	)	COMMENTS OF RENEWABLE
Rulemaking, Including a Statement of Need	)	NORTHWEST RE: PROPOSED
and Fiscal Impact: Migrating Application	)	RULEMAKING ON MIGRATING
Information Requirements from OAR	)	APPLICATION REQUIREMENTS
Division 21 to OAR Divisions 22-24; Part	)	FROM OAR DIVISION 21 TO OAR
one of a multipart effort to revise the rules	)	DIVISIONS 22-24
governing the energy facility siting	)	
application process.	)	

These are the comments of Renewable Northwest, an Oregon public benefit non-profit corporation (Renewable Northwest) on the proposed rulemaking by the Oregon Department of Energy (Agency) to implement a migration of application information requirements for OAR Division 21 to OAR Divisions 22-24.

Renewable Northwest is a non-profit renewable energy advocacy organization with a long-term commitment to and focus on the renewable energy policies and markets of Oregon, Washington, Idaho and Montana. Renewable Northwest's comments herein include input from Renewable Northwest's staff and membership.

1. Renewable Northwest's membership has expressed concerns about the redundancy of information now required in the various sections and exhibits of the proposed rules. Membership does acknowledge OAR 345-021-0010(1), which provides that information that is required in each of several exhibits may be provided in only one exhibit and then cross-referenced in the remaining exhibits. The membership has also expressed a desire in a new application to be able to cross-reference to prior-approved applications and exhibits when appropriate in order to have efficiency and expediency in preparing an application.

2. Renewable Northwest's membership has expressed concerns about changing application exhibits from being lettered exhibits (i.e., "Exhibit P") to being a named exhibit (i.e., "Fish and Wildlife Habitat Exhibit") combined the proposed merger of some exhibits, such as the merger of Exhibits A, D and E into one exhibit named "Organizational Expertise Exhibit." Additionally, where a reference to a lettered exhibit has been deleted, the deletion is not replaced by the named exhibit. Specifically, in OAR 345-021-0010, the references to the lettered exhibits are deleted and not replaced with a named exhibit. The exhibit naming convention provided in OAR 345-021-0010(1) ("e.g. the information provided for the land use standard described in OAR 345-022-0030 should be labeled as "Land Use Exhibit") should be applied to all potential application exhibits in the relevant OAR references to ensure consistency with the naming of application exhibits, otherwise the Agency risks different applicants using different names to identify the same exhibit and information.

There is also concern that these proposed changes will require applicants to have to change their application templates, which will result in costs to the applicants.

3. Therefore, there are questions about how exactly the revised rules and changes to the application process (see above regarding changes to application exhibits) will be rolled out and implemented, and are asking for clarification of the rollout and implementation process.

4. Renewable Northwest notes the following amendment and deletion in OAR 345-022-0130: ~~“To assist the Council in determining compliance with all applicable state and local laws and regulations, Unless directed by the Department that the information does not apply, submit the following, as directed by the project order described in OAR 345-015-0160, the following information is needed to determine compliance with all state and local laws and regulations:”~~ Specifically, we want to know why the language “Unless directed by the Department that the information does not apply” was deleted entirely from the proposed rules and requests clarification regarding whether this option is no longer available.

Respectfully submitted this 5<sup>th</sup> day of February 2025.

**RENEWABLE NORTHWEST**

By:   
Its: Oregon Policy Manager

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## Friends of the Columbia Gorge's Comments on Application Process (Phase 2) Rulemaking

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**From** Nathan Baker <Nathan@gorgefriends.org>

**Date** Tue 2/4/2025 1:39 PM

**To** EFSC Rulemaking \* ODOE <EFSC.rulemaking@energy.oregon.gov>; EFSC Rulemaking \* ODOE <EFSC.rulemaking@oregon.gov>

 1 attachment (161 KB)

2025.02.04 Friends' Comments on Application Process (Phase 2) Rulemaking.pdf;

To Whom It May Concern:

Please find attached the comments of Friends of the Columbia Gorge on the above-referenced rulemaking.

Thank you.



**Nathan Baker**

Senior Staff Attorney

**Friends of the Columbia Gorge**

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*SUBMITTED VIA E-MAIL ONLY*

February 4, 2025

Oregon Energy Facility Siting Council  
c/o EFSC Rules Coordinator

Via email to [EFSC.rulemaking@oregon.gov](mailto:EFSC.rulemaking@oregon.gov) and [EFSC.rulemaking@energy.oregon.gov](mailto:EFSC.rulemaking@energy.oregon.gov)

**Re: Comments on Proposed Amendments to EFSC's Application Process Rules  
(Application Process Phase 2 Rulemaking)**

Dear Chair Howe and Council Members:

Friends of the Columbia Gorge ("Friends") submits the following comments regarding the proposed amendments to EFSC's rules governing the site certificate application process. Friends is a nonprofit organization with approximately 4,500 members dedicated to protecting and enhancing the resources of the Columbia River Gorge, and with strong interests in responsible energy generation and the proper implementation of state law governing the approval, construction, and modification of large energy facilities in Oregon.

The [November 27, 2024 ODOE Memorandum](#) regarding this rulemaking indicates that before the rulemaking was formally initiated, ODOE proposed to substantially narrow the scope of the rulemaking from its original intent to focus solely on reorganizing existing rules:

*The original intent for this rulemaking effort was for staff to evaluate whether the requirements should be removed, or if the standards should be modified to conform to application requirements (and vice versa). However, staff now requests that Council modify the scope of this rulemaking and narrow it solely to a migration of application information requirements to the rules in which their respective standards are found. In other words, a relatively straightforward reorganization of the rules with no substantive changes.*

(Nov. 27, 2024 ODOE Memo at 1 (emphasis added).)

Presumably, the Council approved that recommendation of the Department. If so, the description of this rulemaking in EFSC's monthly Project Updates should have been revised accordingly. For example, the [February 2025 Project Updates](#), issued today (February 4, 2025), states that "[t]he goal" of this rulemaking is "to ensure that what is needed to show compliance with the Council standards is being asked for and *information not used is not required.*" (Feb.

2025 Project Updates at 17 (emphasis added).) As Friends understands it, that description of the “goal” of the rulemaking is no longer accurate, and may have never been accurate. If that is the true goal of the rulemaking, then Friends requests that the Council reopen and extend the public comment period on the rulemaking with proper notice to the public regarding the goal of the rulemaking.

On a substantive note, the proposed draft rules still contain a few lingering references to Exhibits by capital letters, which as we understand it is not consistent with the proposal to “replac[e] . . . all exhibit letters with the subject matter of the exhibit.” (Nov. 27, 2024 ODOE Memo at 2.). For example, proposed rule 345-022-0010(5)(c)(C)(i) still refers to “Exhibit J,” and proposed rule 345-022-0010(5)(c)(C)(ii) still refers to “Exhibit O.”

Thank you for the opportunity to comment on this proposed rulemaking. If we can be of any further assistance, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathan", written in a cursive style.

Nathan Baker  
Senior Staff Attorney