

Oregon Department of **ENERGY**

Energy Facility Siting
Council Meeting

550 Capitol St NE
Salem Or

June 13, 2025



Opening Items:

- Call to Order
- Roll Call
- Announcements

Announcements:

- 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 (Action Item & Information Item)

Consent Calendar

- May Council Meeting Minutes
- Council Secretary Report

June 13, 2025

Compliance Updates

Facility	Issue	Status
Klondike III Wind Project	Incident: Junction Box Fire (50 x 50 yards)	15 turbines de-energized; fire extinguished; no injuries. Turbines are back online

Agenda Item B (Action Item)

Obsidian Solar Center Amendment 2 Proposed Order Review and Possible Final Decision

Christopher Clark, Senior Siting Analyst

June 13, 2025



Obsidian Solar Center RFA2 Review of Proposed Order

Overview

- Overview of Approved Facility
- Evaluation of Request for Amendment 2 (RFA2)
 - Summary of Proposed Changes
 - Procedural History
 - Evaluation of Council Standards
 - Public Comments received on Draft Proposed Order
- Council Deliberation/Potential Decision



Obsidian Solar Center RFA2 Review of Proposed Order

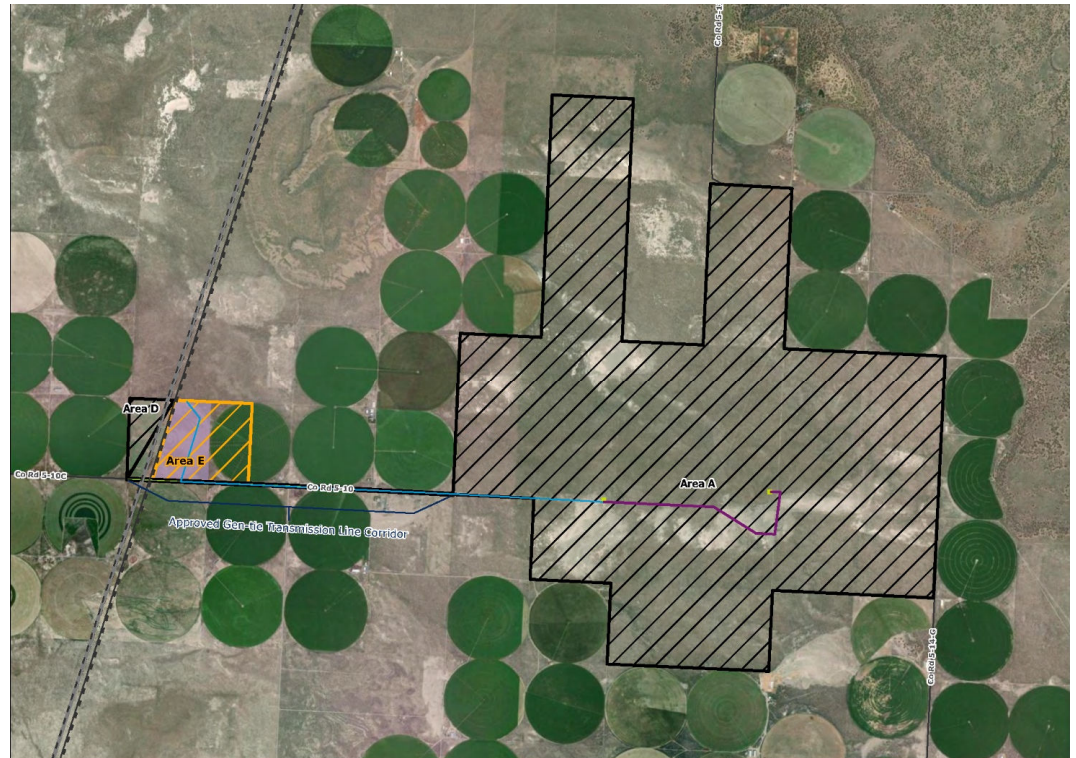
Approved Facility

Energy Facility

- Approved, not-yet constructed 400 MW solar power generation facility

Related or Supporting Facilities

- 50 MW Battery Energy Storage System
- Up to 3.2 mi. 138 kV Transmission Line
- Collector substations
- 115/500 kV step-up substation
- Operations and Maintenance Buildings
- Access roads, perimeter fencing, etc.



Obsidian Solar Center RFA2 Review of Proposed Order

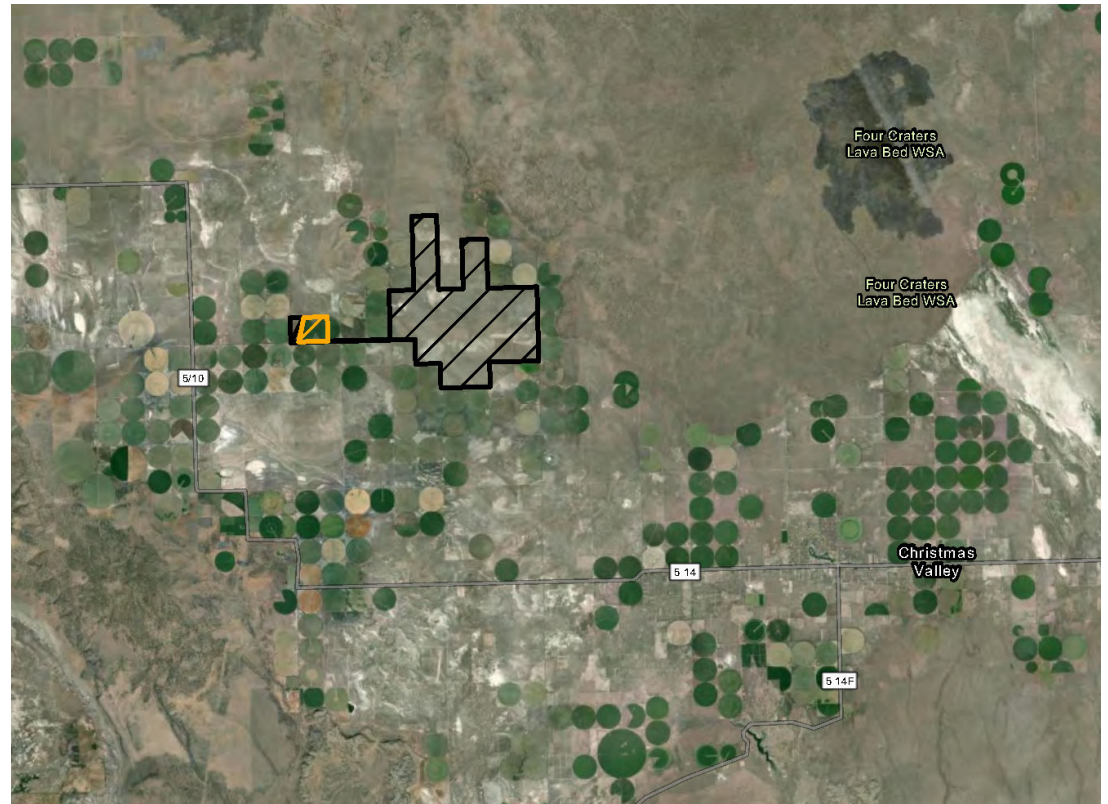
Approved Facility

Certificate Holder

- Obsidian Solar Center, LLC, a subsidiary of Obsidian Renewables, LLC and Lindgren Development, Inc.

Location and Site

- Approved site boundary encompasses approx. 4,091 acres (6.4 sq. miles) of private EFU land in Lake County.
- The site is located approx. 8 miles northwest of Christmas Valley.



Obsidian Solar Center RFA2 Review of Proposed Order

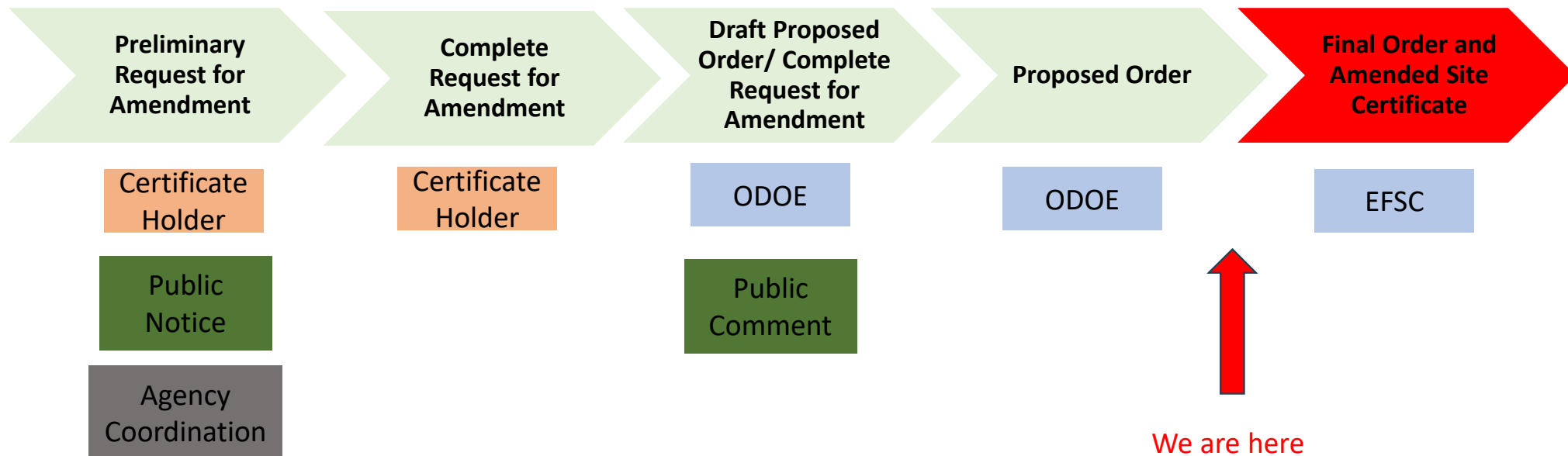
Proposed Changes in RFA2

- Certificate holder seeks the Council's approval to extend the construction commencement deadline by 3 years, from February 25, 2025, to February 25, 2028.
- The request would also extend the completion deadline, which is established as three years from the actual commencement date.
- No changes to the site boundary, or to design, construction, operation, or retirement of the facility proposed.
- Changes proposed to plans and site certificate conditions to conform with the deadline extension and address changes in fact and law.
- RFA2 included a request for review under the Type B process



Obsidian Solar Center RFA2 Review of Proposed Order

Type B Review Process



We are here

Obsidian Solar Center RFA2

Review of Proposed Order

Council Scope of Review

- For Amendments extending construction deadlines (OAR 345-027-0375(2)(b)):
- The Council must determine that the preponderance of evidence on the record supports the following conclusions:
 - The facility, with the proposed change, complies with the laws or Council standards applicable to an original site certificate application, and;
 - For all requests for amendment, the amount of the bond or letter of credit required under OAR 345-022-0050 is adequate.

Obsidian Solar Center RFA2

Review of Proposed Order

Compliance with Council Standards – No Changes

The Department recommends that there were no changes in fact or law that would affect the facilities compliance with, or require new or amended conditions to address, the following standards:

- Structural (Section III.C., pg. 19-22)
- Protected Areas (Section III.F., pg. 34-40)
- Scenic Resources (Section III.J., pg. 58-61)
- Recreation (Section III.L., pg. 65-67)
- Public Services (Section III.M., pg. 67-76)
- Waste Min. (Section III.O., pg. 85-87)
- Noise Control (Section IV.A., pg. 88-97)
- Water Rights (Section IV.C., pg. 98-99)

Obsidian Solar Center RFA2

Review of Proposed Order

Compliance with Council Standards – Minor Updates

General Standard of Review (Section III.A., pg. 12-15)

Recommended Amended General Standard Condition 1 (GEN-GS-01) grants the extended construction commencement deadline.

Organizational Expertise (Section III.B., pg. 15-18)

Recommended Amended Organizational Expertise Condition 5 (GEN-OE-04) provides additional specificity for the requirements for reporting incidents and corrective actions.

Land Use (Section III.E., pg. 25-34)

Recommended Amended Land Use Condition 5 (GEN-LU-01) authorizes phased compliance based on applicability of any permits needed for the construction of the facility.

Obsidian Solar Center RFA2 Review of Proposed Order

Compliance with Council Standards – Minor Updates

Retirement And Financial Assurance (Section III.G., pg. 40-44)

Recommended Amended Retirement and Financial Assurance Condition 5 (PRE-RF-02) reverts estimated financial assurance amount to Q3 2018 dollars and clarifies that additional contingencies may be applied if needed to protect public health and safety and the environment or ensure the assurance is adequate to restore the site.

Historic, Cultural, And Archaeological Resources (Section III.K., pg. 61-65)

Recommended Amended Historic, Cultural and Archeological Resources Condition 2 (GEN-HC-02) allows extension of archaeological permits and incorporates new requirements of OAR chapter 736, division 051.

Obsidian Solar Center RFA2 Review of Proposed Order

Compliance with Council Standards – Minor Updates

Removal-Fill (Section IV.B., pg. 97-98)

Recommended Removal-Fill Condition 1 (PRE-RM-01) requires the certificate holder to provide a valid jurisdictional determination from the Department of State Lands showing a removal-permit is not needed prior to construction.

Obsidian Solar Center RFA2 Review of Proposed Order

Compliance with Council Standards – Access Roads

A 2023 Geotechnical Report provided by the certificate holder indicates that the proposed use of compacted native silt and clay soils for access roads at the site of may result in erosion and access issues.

Soil Protection (Section III.D., pg. 22-24)

Recommended Soil Protection Condition 3 (OPR-SP-01) requires ongoing inspection and maintenance of roads and erosion best management practices during operation.

Obsidian Solar Center RFA2 Review of Proposed Order

Compliance with Council Standards – Wildfire

Wildfire Prevention and Risk Mitigation (Section III.N., pg. 76-85)

- Certificate holder provided updated Wildfire Mitigation Plans prepared using Department provided templates.
- Recommended Amended Wildfire Prevention Conditions 1 to 4 (PRE-WP-01, CON-WP-01, PRO-WP-01, OPR-WP-01) to incorporate the draft wildfire mitigation plans included as Attachments F-1 and F-2 of the Proposed Order.
- Amended plans require certificate holder consults with local fire officials regarding appropriate design criteria for fire access roads prior to beginning construction of the facility.

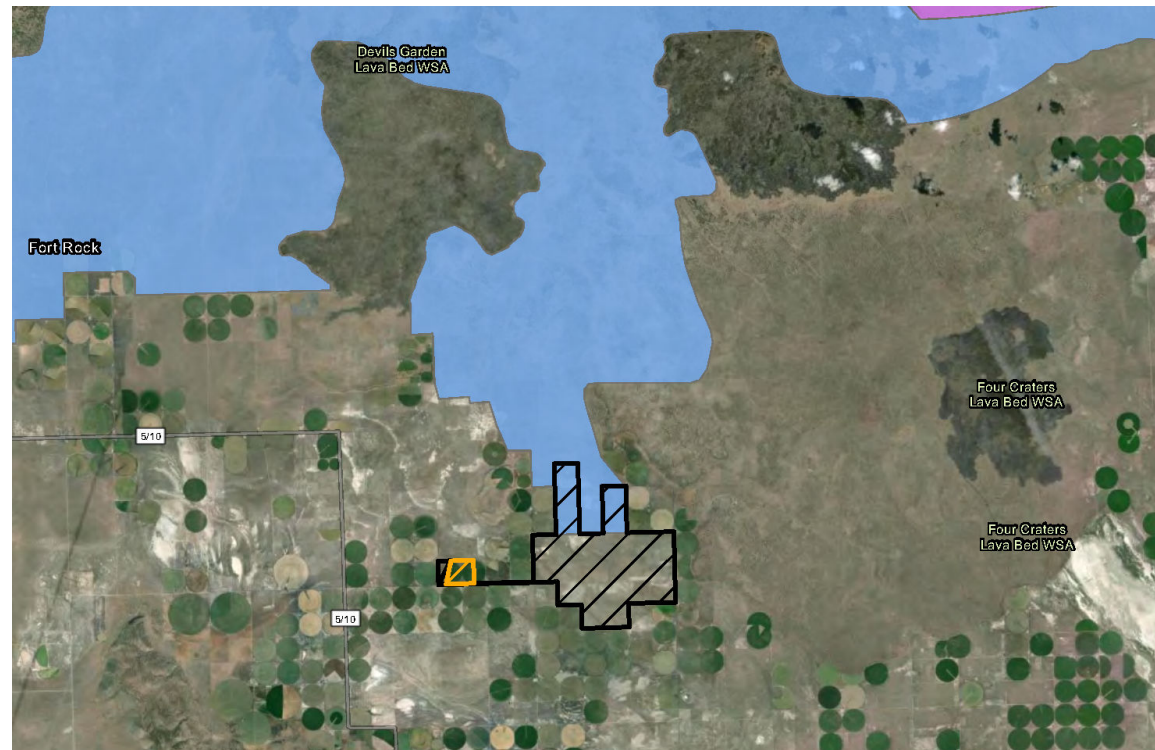
Obsidian Solar Center RFA2 Review of Proposed Order

TC0

Compliance with Council Standards – Sage Grouse

Fish And Wildlife Habitat (Section III.H., pg. 44-55)

- Revised 2023 Sage-grouse Habitat Maps identify approx. 1,478 acres of low-density sage-grouse habitat that overlaps with the approved site.
- The Department recommends the Council find that facility must comply with OAR 345-022-0060(2) and the Greater Sage-Grouse Conservation Strategy for Oregon.



Low-Density Habitat

Core Habitat

Slide 20

TC0

Just an FYI that the notes do not match the slide.

CORNETT Todd * ODOE, 2025-06-05T15:56:21.216

Obsidian Solar Center RFA2

Review of Proposed Order

Compliance with Council Standards – Sage Grouse

Fish And Wildlife Habitat (Section III.H., pg. 44-55) cont'd

- The approved Habitat Mitigation Plan (HMP) requires juniper treatment and other conservation measures in lands that are now also in mapped low-density Sage-grouse habitat. ODFW confirmed the mitigation actions are appropriate for both the general and sage-grouse specific habitat mitigation policies.
- Recommended Amended Fish and Wildlife Condition 2 (GEN-FW-02) requires the certificate holder to finalize the draft HMP provided in Attachment D of the Proposed Order in a manner that satisfies both the general and sage-sage grouse specific habitat mitigation requirements.

Obsidian Solar Center RFA2 Review of Proposed Order

Compliance with Council Standards – Listed Plants

Threatened And Endangered Species (Section III.I., pg. 55-58)

- Several new species were added to the state list of endangered plants since the site certificate was issued. None are known to occur at site, but five occur in Lake County.
- Recommended Amended draft Revegetation and Noxious Weed Control Plan requires incidental observations of listed plants to be recorded during pre-construction noxious weed surveys and avoidance of impacts to areas where listed species are encountered until appropriate mitigation can be determined.

Obsidian Solar Center RFA2

Review of Proposed Order

Public Comments on DPO

- A public comment period on the DPO was held between April 16 and May 16, 2025. There is no opportunity for oral comments in the Type B review process.
- Three public comments were provided on the record of the DPO. Exaction copies of the comments are included as Attachment B to the Proposed Order.
 - The Lake County Planning Director expressed the County's support for the project.
 - Leeroy Horton expressed general opposition to the project and requested a time extension.
 - Jeremiah Thorsted provided identical comments to Mr. Horton.
- The Department determined that none of the comments raised a significant issue of fact of law regarding the facility's compliance with applicable standards with sufficient specificity for the Department to respond, as such, no material changes were made to the Proposed Order based on the comments.

Obsidian Solar Center RFA2 TC0 Review of Proposed Order

Issuance of Final Order

- Council may adopt, modify, or reject the proposed order based on determine whether the preponderance of evidence on the record supports the following conclusions:
 - After considering any changes in facts or law since the date the current site certificate was executed, the facility complies with all laws and Council standards applicable to an original site certificate application.
 - The amount of the bond or letter of credit required under OAR 345-022-0050 is adequate.
- Following review of the proposed order, the Council must issue a final order granting or denying issuance of an amended site certificate.
- Judicial review of the Council's final order is as provided in ORS 469.403.

Slide 24

TC0

Again, just an FYI that the notes do not match the slides.

CORNETT Todd * ODOE, 2025-06-05T17:15:52.557

Council Options

Option 1 - Recommended

Approve the amendment as presented and issue a Final Order and amended Site Certificate

Option 2

Approve the amendment as presented and issue a Final Order and amended Site Certificate with changes

Option 3

Deny the amendment for specific reasons

Council Deliberation



Agenda Item C (Action Item)

Trojan ISFSI Security Plan Revision 10 Review

**Mark Reese, ODOE Radiological Emergency Planning Coordinator and
Christopher Clark, Senior Siting Analyst**

June 13,2025



Trojan ISFSI

Security Plan Revision 10 Review

Facility Overview

- The Independent Spent Fuel Storage Installation (ISFSI) provides temporary storage for spent nuclear fuel and other radioactive materials that were generated during the operation of the Trojan Nuclear Plant between 1976 and 1993.
- The site is located in Columbia County, near the City of Ranier, Oregon.
- The Nuclear Regulatory Commission (NRC) is the primary regulatory authority for the ISFSI but state law requires the Council and Department to monitor operation.



Trojan ISFSI Security Plan Revision 10 Review

Background

- By letter dated March 4, 2025, Portland General Electric notified the Department that Revision 10 of the ISFSI Security Plan had been submitted to the NRC.
- Revision 10:
 - Updates the plan to reflect the construction of a new administrative building, known as the Trojan Support Center (TSC), and updates the locations of an alarm station and upgraded security system components.
 - Updates security incident reporting requirements to reflect new regulations adopted by the NRC under 10 CFR part 73.
 - Updates security equipment and personnel requirements at the site based on recent operational changes.
- PGE determined that the revision did not decrease the effectiveness of the plan under 10 CFR 72.44, 72.78, and 72.186.



Trojan ISFSI Security Plan Revision 10 Review

Background

- The Security Plan contains safeguards information that is protected under federal and state law.
- The Council previously appointed Mark Reese, the Department's Radiological Emergency Planning Coordinator, to inspect the Security Plan on its behalf.
- Based on a May 14, 2025, site visit and review of the revised Security Plan, the Department recommends the Council find that Revision 10 does not reduce the effectiveness of the Security Plan and that PGE is taking appropriate steps and actions to ensure the continued safety and security of the stored spent nuclear fuel at the Trojan ISFSI.

Trojan ISFSI Security Plan Revision 10 Review

Staff Recommendation

- Under OAR 345-070-0030, following its review of the revisions to the Security Plan, the Council must issue a joint statement with the Director that describes, without breaching the confidentiality of the Plan:
 - The nature and scope of the review conducted
 - The adequacy of the security program
 - A general description of the security measures
- A draft statement is attached to the staff report
- The Department requests the Council's authorization to issue the statement with the Director.



Council Options

Option 1 - Recommended

Approve Rev. 10 and
authorize statement, as
presented

Option 2

Approve Rev. 10 and
authorize statement as
presented, with specific
changes

Option 3

Reject Revision 10
and/or request
additional information

Council Deliberation

BREAK

Agenda Item D (Information Item)

PUBLIC COMMENT

Time Limit – 7 Minutes per commentor



How to Raise Your Hand in Webex:

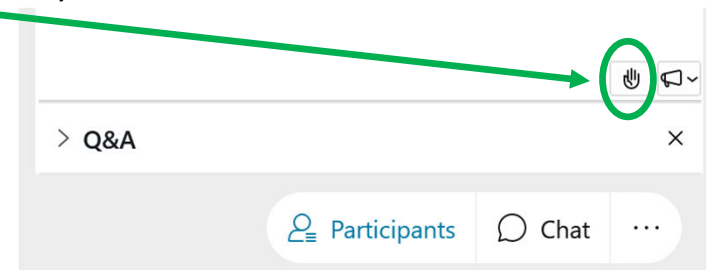
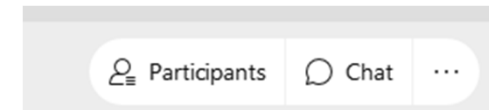
Webinar Participants

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.

Agenda Item E (Information Item)

Legislative Update

Christy Splitt, ODOE Government Relations Coordinator

June 13, 2025



2025 LEGISLATURE: Overview

- New Speaker of the House, relatively new Senate President – with new Democratic and new (or new again) Republican leaders
- Increase in number of bills and hearings
- Budget Dynamics
 - Through May: Anticipated uptick to cover rising costs and some new investments, but otherwise planned for a flat budget year
 - Since May: Recent forecast called for less revenue than expected because of national economic trends, now making reductions from Governor's and Co-Chairs' Recommended Budgets
- Major Issues: Housing, Behavioral Health/Addiction, Education, Transportation, Labor Priorities

ODOE 2025 LEGISLATIVE CONCEPTS

Updates to Existing Programs

- Resilience-only pathway for the Community Renewable Energy Grant Program (*HB 2566 – in Ways and Means*)
- Storage-only pathway for the Oregon Solar + Storage Rebate Program (*SB 827 – passed*)
- Extend the Oregon Rental Home Heat Program and update the Community Heat Pump Deployment Program (*HB 2567 – passed*)



ODOE 2025 LEGISLATIVE CONCEPTS

Statutory Fixes

- Allow the state to contract with national labs (*passed*)
- Get rid of out of date or duplicative reports for State Energy Efficient Design (SEED) and Small-scale Local Energy Loan Program (SELP) (*SB 827 –passed*)
- Dedicated fund for federal Grid Resilience Program (*SB 828 – in Ways and Means*)



2025 LEGISLATURE: Energy Facility Siting

Several bills will or could directly affect EFSC

- Suite of changes from the interim transmission work group
 - HB 3681 (passed)
- County jurisdiction for wind projects expands to under 100 Avg. MW from 50 Avg. MW
 - HB 3874 (passed)
- Light-mitigating technology requirements for wind facilities
 - HB 2375 (passed)
- Small modular nuclear reactor study and pilot, if approved by Umatilla County voters
 - HB 2410 (in committee)
- Local land use regulations not required by statewide planning goals must be implemented by EFSC
 - SB 1034 (in committee)

HB 3681 and EFSC

This bill resulted from an interim work group, led by Rep. Mark Gamba, intended to address the need for more transmission in Oregon.

- Council shall make every effort to conclude contested case proceedings and issue Final Order within one year of issuing Proposed Order
- Time from the issuance of a site certificate to the date by which the project must begin construction: six years
- Final orders must include findings from contested cases
- Judicial review is conferred solely on the Oregon Supreme Court
- To have standing to appeal, an entity must be able to demonstrate injury
- Allows changes in site boundary without an amendment

2025 LEGISLATURE: What's next?

- Major issues – such as the transportation package – are still in flux and could affect energy and climate policy
- Session must end by June 29th
- EFSC rules may need to be adjusted to comply with bills that have passed
- SB 5518, ODOE's budget bill, includes new compliance capacity
- Conversations likely to continue around facility and transmission siting in the interim



You can always reach me at
christy.splitt@energy.oregon.gov.

Disclaimer:
Session is still on and there may
be updates to these slides!

For example, if SB 1034 or HB 2410
appear to be moving through the
process, more details on those bills will
be provided

Council Comments/Questions



Agenda Item F (Action Item)

Compliance Rulemaking Initiation

Tom Jackman, Siting Policy Analyst & Rules Coordinator

June 13, 2025



Background - Rulemaking Process



Compliance Rulemaking - Background

- Energy facilities under EFSC review cannot be sited unless they meet – among other things – Council’s standards, applicable local and state laws, etc.
- One of the main tools for ensuring that these are adhered to is with the use of siting and operation conditions, which are detailed in the site certificate.
 - For example, a site certificate might require a certain setback for clearing vegetation to meet the wildfire prevention standard. This requirement is a **condition** of the site certificate.
- Ensuring these conditions are **complied** with is the heart of the compliance rules (and the related program run by the Compliance team).
- Some compliance rules were updated as recently as 2021, but quite a few have not been updated since 2007 and even 1999.

Compliance Rulemaking – Scope

The goal of this rulemaking is twofold:

1. Improve the clarity and consistency of compliance related rules
2. Provide additional specificity for how monitoring and reporting requirements work, including any related timeframes

Compliance Rulemaking – Possible Topics

- Clarifying the scope of Council oversight through post-construction and general operation of energy facilities
- Clarifying the methodology whereby the Department is updated on the state of a given energy facility
- Removing reporting requirements that are not relied on by the Department and the Council to ensure compliance with site certificate conditions
- Clarifying the process for reporting incidents to the Council
- Clarifying the process for how non-compliance events are handled

Compliance Rulemaking – RAC

Staff recommends a RAC of 10-12 persons representing:

- Members of the public
- Power providers
- Resource groups
- Federally recognized tribes in Oregon
- Agency partners

Council Options

Option 1 - Recommended

Approve the initiation
of informal rulemaking
as presented

Option 2

Approve the initiation
of informal rulemaking
as presented, with
specific changes

Option 3

Deny the initiation of
informal rulemaking

Council Deliberation



WORKING LUNCH BREAK



Agenda Item G (Information Item)

Need Standard Review

**Patrick Rowe, Senior Assistant Attorney General
Oregon Department of Justice**

June 13, 2025





No Need Standard for Generating Facilities

- EFSC “*shall not adopt a standard requiring a showing of need or cost-effectiveness for generating facilities. . .*” ORS 469.501(1)(L)
- It is the policy of this state, “*that the need for new generating facilities is sufficiently addressed by reliance on competition in the market rather than by consideration of cost-effectiveness and shall not be a matter requiring determination by the Energy Facility Siting Council in the siting of a generating facility.*” ORS 469.310

Need Standard (OAR 345-023-0005)

Council has adopted a need standard for 3 types of nongenerating facilities

- Electric Transmission lines
- Natural gas pipelines
- Storage facilities for LNG

Need standard – Transmission Lines

Applies to:

A high voltage transmission line of more than 10 miles in length with a capacity of 230,000 volts or more to be constructed in more than one city or county in this state, subject to certain exclusions. (ORS 469.300(11)(a)(C)).

Need Standard – Transmission Lines

The applicant shall demonstrate need:

- under the least-cost plan rule, OAR 345-023-0020(1),
- the system reliability rule for transmission lines, OAR 345-023-0030, *or*
- by demonstrating that the transmission line is proposed to be located within a “National Interest Electric Transmission Corridor” (NIETC) designated by the U.S. Department of Energy.

Least Cost Plan Rule: OAR 345-023-0020

The Council shall find that the applicant has demonstrated need for the facility if:

- The capacity of the proposed facility is identified for acquisition in an energy resource plan approved by a governmental body that makes or implements energy policy (e.g., PUC) and
- if the energy resource plan includes information identified in the rule, and for transmission lines, consideration of the following alternatives:
 - (A) Implementation of cost-effective conservation, peak load management and voluntary customer interruption as a substitute for the proposed facility;
 - (B) Construction and operation of electric generating facilities as a substitute for the proposed facility;
 - (C) Direct use of natural gas, solar or geothermal resources at retail loads as a substitute for use of electricity transmitted by the proposed facility; and
 - (D) Adding standard sized smaller or larger transmission line capacity;
- **The Council shall find that a least-cost plan meets the criteria of an energy resource plan described in the rule if the Public Utility Commission of Oregon has acknowledged the least cost plan (e.g., an Integrated Resource Plan).**

System Reliability Rule for Transmission Lines

OAR 345-023-0030

The Council shall find that the applicant has demonstrated need for an electric transmission line if the Council finds that:

RPG

- (1) The facility is needed to enable the transmission system of which it is to be a part to meet firm capacity demands for electricity or firm annual electricity sales that are reasonably expected to occur within five years of the facility's proposed in-service date based on weather conditions that have at least a 5 percent chance of occurrence in any year in the area to be served by the facility;
- (2) The facility is consistent with the applicable mandatory and enforceable North American Electric Reliability Corporation (NERC) Reliability Standards in effect as of September 18, 2015 as they apply either internally or externally to a utility system; *and*
- (3) Construction and operation of the facility is an economically reasonable method of meeting the requirements of sections (1) and (2) compared to the alternatives evaluated in the application for a site certificate.

Slide 61

RPG0 Note, the published version of the rule includes old language in section (2). I conferred with Kellen and Tom about that. Tom is going to update it to reference the NERC standards (which we applied in B2H and which both CRT and UEC reference in their NOIs).

Rowe Patrick G, 2025-05-21T19:13:41.509

Need Standard – Natural Gas Pipelines

The applicant shall demonstrate need for natural gas pipelines under the least-cost plan rule, OAR 345-023-0020(1), or the economically reasonable rule for natural gas pipelines, OAR 345-023-0040.

Economically Reasonable Rule for Natural Gas Pipelines OAR 345-023-0040

The Council shall find that the applicant has demonstrated need for a natural gas pipeline or a facility that stores liquefied natural gas if the Council finds that:

- (1) The facility is needed to enable the natural gas supply system of which it is to be a part to meet firm capacity demands for natural gas that are reasonably expected to occur within five years following the facility's proposed in-service date based on weather conditions that have at least a 5 percent chance of occurrence in any year in the area to be served by the proposed facility; and
- (2) Construction and operation of the facility is an economically reasonable method of meeting the demands described in section (1) compared to the alternatives evaluated in the application for a site certificate.

Need standard - LNG Storage Facilities

Applicant shall demonstrate need for storage facilities for liquefied natural gas with storage capacity of three million gallons or greater under the least-cost plan rule, OAR 345-023-0020(1), or the economically reasonable rule, OAR 345-023-0040.

Nongenerating Facilities – no current Need standard

A surface facility related to an underground gas storage reservoir that, at design injection or withdrawal rates, will receive or deliver more than 50 million cubic feet of natural or synthetic gas per day, or require more than 4,000 horsepower of natural gas compression to operate, but excluding:

- (i) The underground storage reservoir;
- (ii) The injection, withdrawal or monitoring wells and individual wellhead equipment; and
- (iii) An underground gas storage reservoir into which gas is injected solely for testing or reservoir maintenance purposes or to facilitate the secondary recovery of oil or other hydrocarbons.

Nongenerating Facilities – no current need standard

- Pipelines of certain sizes/lengths used to transport, among other products:
 - Crude petroleum, LNG, Synthetic gas , subject to certain exclusions (ORS 469.300(11)(a)E))
- A synthetic fuel plant which converts a natural resource including, but not limited to, coal or oil to a gas, liquid or solid product intended to be used as a fuel and capable of being burned to produce the equivalent of two billion Btu of heat a day.
- A plant which converts biomass to a gas, liquid or solid product, or combination of such products, intended to be used as a fuel and if any one of such products is capable of being burned to produce the equivalent of six billion Btu of heat a day.

Nongenerating Facilities – no current Need standard

- **Pipelines of certain sizes/lengths used to transport, among other products:**
 - Crude petroleum, LNG, Synthetic gas , subject to certain exclusions (ORS 469.300(11)(a)E))
- **A synthetic fuel plant** which converts a natural resource including, but not limited to, coal or oil to a gas, liquid or solid product intended to be used as a fuel and capable of being burned to produce the equivalent of two billion Btu of heat a day.
- **A plant which converts biomass to a gas, liquid or solid product**, or combination of such products, intended to be used as a fuel and if any one of such products is capable of being burned to produce the equivalent of six billion Btu of heat a day.

Questions

Agenda Item H (Action Item)

Amendment Rulemaking-Notice of Proposed Rulemaking

Tom Jackman, Siting Policy Analyst & Rules Coordinator

June 13, 2025



Background - Rulemaking Process



Amendment Rulemaking - RAC

Energy Provider or Investor-Owned Utility

Lenna Cope – Portland General Electric

Andrew Bauer – NW Natural

Patrick Collins / Chad Campfield – Umatilla Electric Cooperative

David Lawlor – NextEra Energy

Energy Advocacy or Trade

Alyssa Forest / Angela Crowley-Koch – OSSIA

Paul Hicks – Tetra Tech

Emily Griffith – Renewable Northwest

Agency / Government

Branden Pursinger – Oregon Counties

Jon Jinings – DLCD

Georgia Macnab – Sherman County

Public Interest

Irene Gilbert – Public

Don Hilderbrand – Public

Yvonne Scott – Public

Jessica Bernardini – Public

Resource Interest

Rudy Salakory – Friends of the Gorge

Amendment Rulemaking – Three RACs

- **June 26, 2024** – Introduced topics
- **September 26, 2024** – Reviewed Staff and RAC issues
- **April 29, 2025** – Reviewed proposed draft language

Amendment Rulemaking - Scope

1. Improve the clarity of the rules by resolving ambiguities
2. Make changes to improve Council's amendment process based on lessons learned
3. Update the rules to ensure compliance with new statutes, revised rules, and recent direction of the courts.

Amendment Rulemaking – Three Categories

1. Minor
2. Modest
3. Significant

Amendment Rulemaking - Minor

- Removal of outdated printed copy requirements (OAR 345-027-0110(4))
- Rule language throughout modified to improve the readability of the rule (various)
- Updated rule language to reflect recent rulemakings, such as the addition of the Council's Wildfire Prevention and Risk Mitigation standard (OAR 345-027-0210(g))
- Modifying the name of "Type C" amendments to "a pre-operational request for amendment" to reflect the proposed loss of the A/B amendment types (OAR 345-027-0380)
- Removed duplicative rule language in OAR 345-027-0375(2)(e) (Council's Scope of Review), as this rule language is incorporated in OAR 345-027-0375(2)(b)

Amendment Rulemaking - Modest

- A new documentation requirement to help the Department track compliance with the Council-approved final retirement plan (OAR 345-027-0110(7))
- New direction that explains how a certificate holder may apply to Council to release a portion of the site from the terms and conditions of the site certificate (OAR 345-027-0110(10))
- Clarifying how request for amendment analysis areas (“RFA analysis areas”) are to be determined (OAR 345-027-0360)
- Adding new requirements for how previously submitted evidence may be utilized in a pending amendment request (OAR 345-027-0360(4))

Amendment Rulemaking - Modest

- Providing the Council with additional flexibility on the location of the public hearing on the amendment based on limited public interest or conditions like inclement weather (OAR 345-027-0367(2))
- Modifying the public comment period to ensure that it does not end until at least one week after the public hearing on the amendment (OAR 345-027-0367(3))
- Removing the requirement for site certificate holders to demonstrate a need for extension requests as Council has no need standard for purposes of seeking an extension (OAR 345-027-0385(1))
- Removing no longer relevant rule language directing what portion of the construction extension deadline rules apply based on when the request was submitted as it relates to previously amended rules (OAR 345-027-0385(5))

Amendment Rulemaking – Significant

Removal of Type A/B Amendment Paths

Type A and B have only a few key differences:

Type A	Type B
Always a public hearing	No hearing during public comment period
Possibility of a contested case	No possibility for a contested case

Amendment Rulemaking – Significant

Removal of Type A/B Amendment Paths

- Type B amendment requests are faster!
- Hard to determine if this is because of the streamlined process or just because things that qualify for type B are by their nature less complex
- Staff proposes to eliminate the dual track and replace with an inherently more flexible process
- Eliminates the need to do an amendment determination request for the purposes of determining the type A/B classification

Amendment Rulemaking – Significant

Removal of Type A/B Amendment Paths

Type A	Type B
Always a public hearing	No hearing during public comment period
Possibility of a contested case	No possibility for a contested case

Amendment Rulemaking – Significant

Removal of Type A/B Amendment Paths

PROPOSED APPROACH

Always a public hearing, but more flexible as to the location

No contested case possibility for any request for amendment

Amendment Rulemaking – Significant

Removal of Contested Case Option

- Can we even do this?
- Should we do this?
- What can we replace this process with?

Amendment Rulemaking – Significant

Removal of Contested Case Option

Can we even do this?

Yes.

Amendment Rulemaking – Significant

Removal of Contested Case Option

- Original site certificate application will still allow for and indeed Oregon statute requires the possibility of a contested case.
- However, there is no similar language in the amendment related statutes requiring a contested case on a request for amendment.
- Council has the authority to establish by rule what types of amendments, if any, go through a contested case.

Amendment Rulemaking – Significant

Removal of Contested Case Option

Should we do this?

Also, yes.

Amendment Rulemaking – Significant

Removal of Contested Case Option

Two main issues:

1. Contested case requests almost never meet the threshold of justifying a contested case. If the Council determines there are still outstanding issues, they can remand the Proposed Order to staff to address them. But contested case requests result in added expense and time.
2. Contested case allows for possibility of further argument of potential issues, but this possibility is, by its nature, very late in the game.

Amendment Rulemaking – Significant

Removal of Contested Case Option

What can we replace this process with?

Amendment Rulemaking – Significant

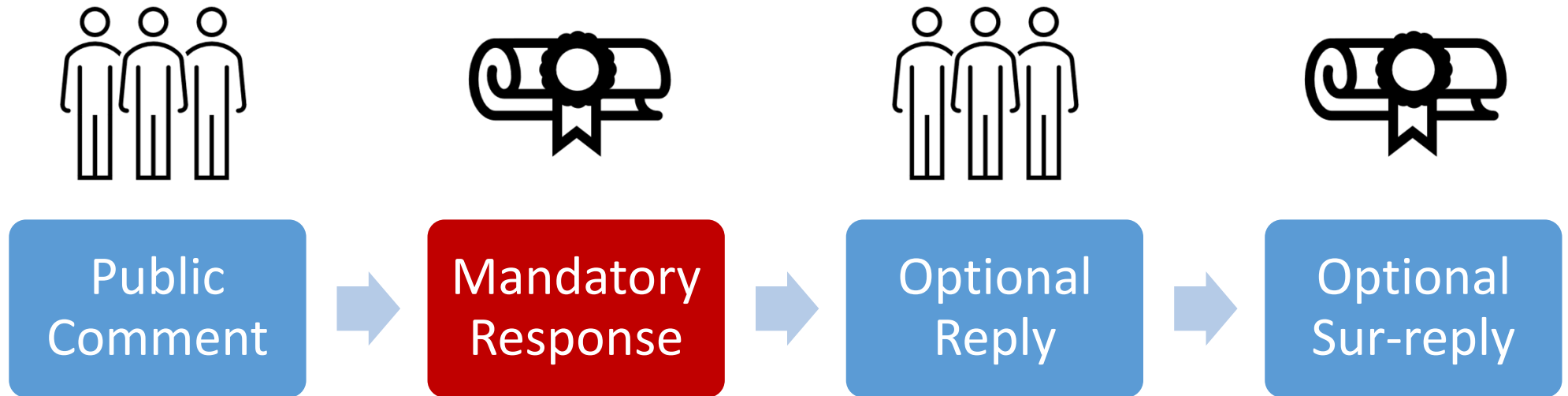
Removal of Contested Case Option

Two main goals of a new process:

1. Improve quality and utility of public participation
2. Ensure any relevant data or arguments in possession of the public are explored in a timely fashion – as early as possible

Amendment Rulemaking – Significant

Removal of Contested Case Option



Amendment Rulemaking – Significant

Removal of Contested Case Option

The threshold at which public comments impact a request for amendment **does not change** under the proposed process

- Comments still must be made with **sufficient specificity**
- This means that comments need to identify an **issue of fact or law** and provide **sound reasoning and data** to support any allegations of issues

Amendment Rulemaking – Significant

Removal of Contested Case Option

What does change with the proposed process:

- Public commentors now learn almost immediately what, if any issues there are with the comments submitted during the public comment period
- Public commentors can now timely remedy their comments to meet the sufficient specificity standard if they initially failed to do so
- Any information from the remedied comments is available to the department prior to review by the Council of the draft final order

Amendment Rulemaking – Significant

Process Steps

Current Type A Amendment Process



Current Type B Amendment Process



Proposed Amendment Process



Amendment Rulemaking – Significant

Current Type A Process Steps

1. Preliminary Request for Amendment

- Public and reviewing agency notice of receipt of preliminary request for amendment within 14 days of receipt
- ODOE has **60 days** to determine if complete or incomplete. Request for additional information if incomplete

2. Complete Request for Amendment

- Notice to certificate holder of completeness and date of DPO issuance. DPO issuance is no later than **120 days** after date of notice.

3. Draft Proposed Order

- Public and reviewing agency notice of complete request for amendment and DPO
- Comment period
- Public Hearing in front of Council in the vicinity of the project
- Council review of the DPO – Usually at the next Council meeting



Amendment Rulemaking – Significant

Current Type A Process Steps Cont'd.

4. Proposed Order

- Issued no later than **30 days** after Council's review of the DPO
- Public and reviewing agency Notice of Proposed Order and Requests for a Contested Case
- Minimum **30 day** deadline to request a Contested Case

5. Optional Contested Case

- Council reviews requests for a Contested Case at its next Council meeting
- If approved, Council appoints a hearing officer and the contested case begins
- If Proposed Order is remanded to Department, then step 4 repeats
- If denied, then step 6 can occur at the same meeting

6. Final Order

- Council reviews Proposed Order and adopts, modifies or rejects
- If amendment is approved, an amended site certificate is issued



Amendment Rulemaking – Significant

Current Type B Process Steps

1. Amendment Determination Request – Could occur prior to or with preliminary request

- After Department makes determination, the Council Secretary provides verbal notice to Council at the next Council meeting. Council can review for concurrence, modification or rejection.

2. Preliminary Request for Amendment

- Public and reviewing agency notice of receipt of preliminary request for amendment within 14 days of receipt
- ODOE has **21 days (Type A – 60 days)** to determine if complete or incomplete

3. Complete Request for Amendment

- Notice to certificate holder of completeness and date of DPO issuance. DPO issuance is no later than **60 days (Type A – 120 days)** after date of notice.

Amendment Rulemaking – Significant

Current Type B Process Steps Cont'd.

4. Draft Proposed Order

- Public and reviewing agency notice of complete request for amendment and DPO
- Comment period

5. Proposed Order

- Issued no later than **21 days (Type A – 30 days)** after Council's review of the DPO
- Public and reviewing agency Notice of Proposed Order

6. Final Order

- Council reviews Proposed Order and adopts, modifies or rejects
- If amendment is approved, an amended site certificate is issued

Amendment Rulemaking – Significant

Proposed Process Steps

1. Preliminary Request for Amendment

- Public and reviewing agency notice of receipt of preliminary request for amendment within 14 days of receipt
- ODOE has **45 days (Type A – 60 days)** to determine if complete or incomplete. Request for additional information if incomplete

2. Complete Request for Amendment

- Notice to certificate holder of completeness and date of PO issuance. PO issuance is no later than **21 days (Type A – 60 days)** after date of notice.

Amendment Rulemaking – Significant

Proposed Process Steps Cont'd.

3. Proposed Order

- Public and reviewing agency notice of complete request for amendment and PO
- Comment period
- Public Hearing in front of Council in the vicinity of the project is default. **Council has opportunity to determine if in person or in the vicinity is warranted.**
- **Replies to comments. Mandatory for certificate holder and optional for Department**
- **Commentors have opportunity to perfect their comments based on certificate holder and Department responses**
- **Certificate holder and Department may provide sur-replies.**

4. Final Order

- **Draft of Final Order issued within 21 days of sur-replies**
- Council reviews **Draft of Final Order** and adopts, modifies or rejects
- If amendment is approved, an amended site certificate is issued

Amendment Rulemaking – HB 3681

Time Extension Requests

- Current
 - Mandatory Condition (OAR 345-025-0006(4) - The current practice of Council is a three-year construction commencement deadline in the site certificate
 - OAR 345-027-0385(4) allows for up to two, three-year extensions,
 - Total = **nine years to begin construction**
- Proposed
 - HB 3681 requires that the initial period to begin construction be at least six years.
 - Proposed change to rules allows for any extension, as long as the total pre-construction time period does not exceed nine years
 - Total = **nine years to begin construction**

Amendment Rulemaking – HB 3681

Site Boundary Increase

- Existing Council rules allow for some site boundary increases to not require amendment
- Supreme Court held that any site boundary change requires a mandatory amendment request
- HB 3681 codifies the existing rules
- This means that by **not** changing the rules, come Jan 1, 2026, the rules will reflect Oregon law
- Until Jan 1, 2026, the Department will require any site boundary requests to undergo a mandatory amendment request

Council Options

Option 1 - Recommended

Approve the initiation of formal rulemaking and file the NOPR using the draft rules as presented

Option 2

Approve the initiation of formal rulemaking and file the NOPR using the draft rules as presented, with changes

Option 3

Deny the initiation of formal rulemaking

Council Deliberation



Agenda Item I (Action Item)

Solar Photovoltaic Rules - 5 Year Review

Tom Jackman, Siting Policy Analyst & Rules Coordinator

June 13, 2025



Upcoming 5-Year Reviews

Project ID	Project Name	Due Date
R183	Solar Photovoltaic Power Generation Facilities	Complete by 6/20/2025
R207	Safe Public Meetings and Hearings	Complete by 10/23/2025
R195	Radioactive Materials Enforcement	Complete by 2/26/2026

5 Year Review: 2020 Solar Energy Rule

OAR 345-001-0250

Solar Photovoltaic Power Generation Facilities

Designed to create a path for the Council to determine whether “a proposed solar photovoltaic power generation project is an expansion of an existing or proposed solar photovoltaic power generation facility.”



5 Year Review: 2020 Solar Energy Rule

OAR 345-001-0250

- Council has yet to apply this rule
- However, nothing the Department has learned in the last five years suggests keeping this rule on the books is a bad idea



5 Year Review: 2020 Solar Energy Rule

- Whether the rule has had the intended effect;
- Whether the anticipated fiscal impact of the rule was underestimated or overestimated;
- Whether subsequent changes in the law require that the rule be repealed or amended;
- Whether there is continued need for the rule; and
- What impacts the rule has on small businesses.



Council Options

Option 1 - Recommended

Approve the 5-year
analysis as proposed

Option 2

Approve the 5-year
analysis as proposed
but with changes

Council Deliberation



ADJOURN

