



Oregon

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To: Oregon Energy Facility Siting Council

From: Thomas L. Jackman, Rules Coordinator

Date: May 30, 2025

Subject: Agenda Item F (Action Item) – Compliance – Initiation of Informal Rulemaking for the June 13, 2025 EFSC Meeting

BACKGROUND AND SUMMARY

As part of the 2025-2027 Rulemaking Schedule, the Council directed staff to explore a rulemaking designed to update Council's rules that govern its compliance process. This project would consist primarily of a review of the rules for construction and operation of energy facilities under OAR 345-026-0005 to 345-026-0170.

Council previously approved this project to begin in 2018 and appointed a RAC to begin development of proposed rules for the project, however due to staffing issues within the Department, the rulemaking did not move forward at that time. Staff recommends that Council reprioritize this project and move forward with it in 2025.

SCOPE AND OBJECTIVES

The rulemaking project is intended to improve the clarity and consistency of compliance related rules and to provide additional specificity for monitoring and reporting requirements and timeframes.

Examples of possible improvements include:

- 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

RULEMAKING ADVISORY COMMITTEE

Given the substantive nature of the rule requirements being looked at, staff is of the belief that a Rulemaking Advisory Committee (RAC) is appropriate. Staff recommends a RAC of 10-12 persons representing:

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

Of course, an opportunity will be given to all who are interested in these rules to provide comments during a future public comment period as well as during the public comment of all RAC meetings.

STAFF RECOMMENDATION

Staff recommends that the Council initiate informal proceedings on the Compliance Rulemaking, which was approved for the 2025-2027 Rulemaking Schedule. Staff recommends that Council approve the scope and general direction of the rulemaking as outlined above. Staff also requests that the Council approve a RAC in the development of the draft proposed language and appoint staff to seek out interested parties to appoint to the RAC as outlined above. Please note that the Council is not being asked at this time to consider proposed rule amendments or the adoption of permanent rules.