



Oregon

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To: Energy Facility Siting Council

From: Tom Jackman, Siting Policy Analyst & Rules Coordinator

Date: September 5, 2025

Subject: Agenda Item G (Action Item): Modernization Rulemaking Notice of Proposed Rulemaking Consideration for the September 19, 2025 EFSC Meeting

Attachments: Attachment 1: Draft Proposed Rules

STAFF RECOMMENDATION

Staff requests the Council's authorization for staff to issue a Notice of Proposed Rulemaking based on proposed amendments to its rules as shown in Attachment 1.

BACKGROUND

On March 21, 2025, Council initiated rulemaking to review its rules for any minor corrections and updates that would not otherwise merit their own rulemakings. At this meeting, the Council approved staff's recommended scope and directed staff to proceed without a Rulemaking Advisory Committee and instead work internally to prepare a draft of proposed rules.

SUMMARY OF PROPOSED RULES

The draft proposed rules consist of a great many minor corrections, e.g., correction of outlining errors or incorrect references, that would otherwise qualify as "statutory minor corrections." These changes can be done without the normal rulemaking process. However, bundling these minor changes in a single rulemaking creates a much cleaner rulemaking record. Other very minimal changes include a reformatting of OAR 345-022-0050 to make it flow better, a reversion of an inadvertent rule change done in a prior rulemaking (OAR 345-023-0030(2)) and updating the version of other agency rules that are required to be met to a more recent time period. See OAR 345-022-0060(1) and (2).

In addition to these corrections and updates, these draft rules contain the following, more substantive proposed rule changes intended to update and modernize the Council's rules:

Data Submission Requirements (OAR 345-001-0100)

Staff proposes a new rule that directs parties to submit any data used to produce maps or other geospatial data in an acceptable format as approved by the department. While many applicants

are already submitting data in the preferred formats, some do not, and staff recommends introducing this new rule to clarify how data should be submitted to improve the review of data submissions as well as to enhance the compliance program.

DoD Notice (OAR 345-015-0110)

Staff proposes formalizing the process for providing the Department of Defense (DoD) notice of new energy facility applications. Staff already notifies DoD of new projects, but DoD requested that this new rule be added to formalize this process, and staff sees no reason not to do so.

Removal of Newspaper Publication (OAR 345-015-0194(1), 345-015-0220(2)(a), 345-015-0310(15)(a), 345-015-0310(21)(a))

Given the precipitous decline of print circulation in Oregon¹ and the rise of information sharing via social media avenues, staff recommends the removal of all newspaper circulation notification from the siting process. It is difficult to know if there is any utility left in the time and expense invested in providing newspaper notice. Indeed, in several parts of the state there are no major newspapers of record serving those areas.² Should the Council agree with this proposal, any who still find value in this type of notice, if they exist, will hopefully make themselves heard during the comment period.

Removal of Hard Copy Print Requirements (OAR 345-015-0200(2), 345-015-0310(5), 345-020-0006(2), 345-020-0016(1), 345-021-0000(7), 345-027-0110(4), 345-027-0230(3))

Staff proposes the removal of the requirement that applicants and site certificate holders must print copies of all their various submissions by default, while still allowing, where applicable, for the possibility that the Department might request copies to be printed should a member of the public request one. This is another legacy rule that made more sense when these hard copy requirements were introduced, but makes little sense today.

Removal of rule version requirements (OAR 345-022-0040(4), 345-022-0080(4), 345-022-0100(4))

When several of Council's standards were previously updated, language was inserted to help new applicants and pending applicants navigate applicability issues. Given the passage of time, these applicability provisions are no longer relevant.

Removal of preconstruction limitation (OAR 345-025-0006(5))

This proposed change would allow all energy facilities to begin preconstruction even if they lack the construction rights to all parts of the site. Access rights would still be needed for the locations to be constructed. This construction allowance currently applies to wind facilities, transmission lines and pipelines, but not to other types of energy facilities. It is not clear why this rule should only apply to wind facilities, transmission lines and pipelines and so staff proposes removing this restriction.

¹ <https://www.opb.org/article/2024/12/09/local-news-job-loss-oregon/>

² <https://agorajournalism.center/newsecosystem22/mapping-the-local-news-ecosystem-in-oregon/>