

OREGON DEPARTMENT OF ENERGY

Regarding Statutes, Administrative Rules, and)
Other Requirements Applicable to the Proposed)
Bakeoven Solar Project)

PROJECT ORDER

**ISSUED BY
OREGON DEPARTMENT OF ENERGY
550 Capital Street NE
Salem, OR 97301-3742**

Issued February 1, 2019

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1 **I. INTRODUCTION**

2 The Oregon Department of Energy (ODOE or the Department) issues this Project Order for the
3 proposed Bakeoven Solar Project in accordance with Oregon Administrative Rule (OAR) 345-
4 015-0160. The applicant is Bakeoven Solar, LLC, a wholly owned subsidiary of Avangrid
5 Renewables, LLC. On November 1, 2018, the applicant submitted to the Department a Notice of
6 Intent (NOI) to apply for a site certificate. The proposed facility would occupy up to 3,030 acres
7 (4.73 square miles) and provide a nominal generating capacity of up to 303 megawatts (MW)
8 from photovoltaic (pv) solar power.

9 Following the review of an NOI, Oregon Revised Statute (ORS) 469.330(3) and OAR 345-015-
10 0160 require the Department to issue a Project Order to the applicant establishing the
11 application requirements for the proposed facility. Accordingly, the Department issues this
12 Project Order establishing the requirements for the site certificate application for the Bakeoven
13 Solar Project. As provided in ORS 469.330(4), this is not a final order and the Department or the
14 Energy Facility Siting Council (EFSC or Council) may, based on changes in regulatory
15 requirements prior to site certificate execution, changes proposed by the applicant in an
16 application for site certificate, or changes proposed by a certificate holder in a request for
17 amendment, amend this Project Order at any time.

18 ORS 469.401(4) provides that a site certificate issued by the Council does not govern certain
19 matters. The Project Order identifies only those matters that will be included in and governed
20 by the site certificate, if issued by EFSC, and as applicable to issuance of the site certificate for
21 the proposed facility pursuant to ORS 469.503(3). Throughout this Project Order, the definitions
22 in ORS 469.300 and OAR 345-001-0010 apply, except where otherwise stated or where the
23 context indicates otherwise.

24 As noted, on November 1, 2018, Bakeoven Solar, LLC submitted to the Department a NOI to file
25 an application for a site certificate for a proposed photovoltaic energy generation facility which
26 may include up to 100 MW of battery storage. According to the NOI, the proposed photovoltaic
27 energy generation facility would occupy up to 3,030 acres (4.73 square miles) of land in Wasco
28 County. Proposed related and supporting facilities to the energy facility would consist of a
29 collection system, collector substation, an 11-mile 230 kV transmission line, operation and
30 maintenance building, private service and access roads, and temporary construction staging
31 areas. The proposed energy facility and its related or supporting facilities are referred to as the
32 proposed facility. As described in the NOI, the Bakeoven Solar Project would have a nominal
33 electric generating capacity of approximately 303 MW, and use up to 3,030 acres (4.73 square
34 miles) of land, as a result, falls within Council jurisdiction.¹ Therefore, a site certificate from the
35 Council is required to authorize the construction and operation of the proposed facility.

36 On November 28, 2018, ODOE issued a public notice of the NOI to the EFSC mailing list and to
37 adjacent property owners as defined at OAR 345-020-0011(1)(f). ODOE also published the
38 notice in *The Dalles Chronicle* newspaper that ran on November 28, 2018. The public notice

¹ ORS 469.300(11)(a)(D) defines EFSC jurisdictional solar photovoltaic power generation facilities.

1 included information regarding the proposed facility and the EFSC review process, and set
2 January 11, 2019 as the public comment deadline for the NOI.

3 Pursuant to ORS 469.480(1), EFSC must designate as a Special Advisory Group the governing
4 body of any local government within whose jurisdiction the facility is proposed to be located. At
5 the November 16, 2018 EFSC meeting, the Council appointed the Wasco County Board of
6 County Commissioners as the Special Advisory Group (SAG).²

7 In compliance with OAR 345-021-0050(1), ODOE prepared a memorandum to reviewing
8 agencies, Tribal Governments, and the Special Advisory Group, and compiled a distribution list,
9 including all reviewing agencies identified and defined in OAR 345-001-0010(52). In accordance
10 with ORS 469.350(2) and OAR 345-020-0040, on November 28, 2018 ODOE sent the
11 memorandum and a copy of the NOI to each of the reviewing agencies listed in Table 1. The
12 Department requested comments from reviewing agencies on or before January 11, 2019.
13 Consistent with ORS 469.330(3), during the week of January 7 – 11, 2019, the Department held
14 pre-application conferences with the SAG, reviewing agencies and Tribal Governments to
15 discuss the NOI, the proposed facility and the EFSC review process.

16 As discussed in Section V. *Comments on the Notice of Intent*, and in accordance with OAR 345-
17 015-0140, the Department sent the applicant a copy of each reviewing agency comment letter
18 received for their review and consideration in preparing the application for site certificate; no
19 public comments were received on the NOI during the November 28, 2018 through January 11,
20 2019 comment period.

² Pursuant to ORS 469.480, the governing body of a local government within whose jurisdiction the facility is proposed to be located shall be designated by EFSC as a “special advisory group.”

1

Table 1. Reviewing Agency Distribution List

State Agencies	
<ul style="list-style-type: none"> • Oregon Department of Environmental Quality • Oregon Department of Agriculture • Oregon Department of Fish and Wildlife • Oregon Department of Geology and Mineral Industries • Oregon Department of Aviation • Oregon Department of State Lands • Oregon Department of Transportation • Oregon Water Resources Department 	<ul style="list-style-type: none"> • Oregon Department of Forestry • Oregon Public Utilities Commission • Oregon Parks and Recreation Department • Department of Land Conservation and Development • Office of State Fire Marshal • Oregon State Historic Preservation Office
Native American Tribes	
<ul style="list-style-type: none"> • Burns Paiute Tribe 	<ul style="list-style-type: none"> • Confederated Tribes of the Warm Springs
Special Advisory Group	
<ul style="list-style-type: none"> • Wasco County Board of County Commissioners 	
Other Reviewing Agencies	
<ul style="list-style-type: none"> • Northwest Power Planning Council • Wasco County Planning Department 	<ul style="list-style-type: none"> • Sherman County Planning Department • City of Maupin • City of Shaniko

2

3

II. EFSC REGULATORY FRAMEWORK

4

5

Issuance of a site certificate is governed by the statutory requirements in ORS 469.300 *et seq.* and administrative rules in OAR chapter 345. The following divisions of OAR Chapter 345 include rules related to application requirements, EFSC review of an application, and construction and operation of an approved facility:

6

7

OAR Chapter 345, Division 21 (Site Certificate Application Requirements) includes the primary site certificate application requirements (see Section III. *Application Requirements* of this Project Order).

8

9

OAR Chapter 345, Division 22 (Council Standards for Siting Facilities) includes most of the regulatory standards by which the EFSC must evaluate the proposed facility. In addressing each of the Division 21 application requirements, the applicant shall refer to the Division 22 standard to which the requirement relates to ensure the application is responsive to the standards by which the Council must evaluate it.

10

11

OAR Chapter 345, Division 24 (Specific Standards for Siting Facilities) includes additional standards for specific types of EFSC applications. In addressing the Division 21 application requirements, the application shall refer to the Division 24 standards that apply to the proposed facility to ensure the application is responsive to these standards.

12

13

14

1 The Division 24 standards that apply to the proposed facility is OAR 345-024-0090, Siting
2 Standards for Transmission Lines.

3
4 **OAR Chapter 345, Division 25** (Site Certificate Conditions) includes the mandatory
5 conditions that EFSC must apply to all site certificates, as well as applicable site-specific
6 and monitoring conditions. Note that per the mandatory condition included at OAR 345-
7 025-0006(10), the Council will include as conditions in the site certificate, if issued, all
8 representations made in the application and supporting record the Council deems to be
9 binding commitments made by the applicant.

10 **OAR Chapter 345, Division 26** (Construction and Operation Rules for Facilities) includes
11 the compliance plan requirements that will apply if the Council issues a site certificate
12 for the proposed facility. In addressing the Division 21 application requirements, the
13 applicant shall refer to the compliance plan requirements, described in OAR 345-026-
14 0048, and reporting requirements, described in OAR 345-026-0080. Note that, if a site
15 certificate is issued, the certificate holder must also comply with additional
16 construction- and operation-related regulations that may apply to the proposed facility
17 but that may not be covered by the site certificate, per ORS 469.401(4).
18

19 **III. APPLICATION REQUIREMENTS**

20

21 The applicant must adhere to the general requirements under OAR 345-021-0000, including, for
22 all state and local government agency permit approvals that the applicant proposes to be
23 included in and governed by the site certificate, the submittal of information that would
24 otherwise be required by the state or local government agency in an application for such
25 permit, license or certificate [OAR 345-021-0000(6)]. The applicant shall also submit copies of
26 the applications for federally-delegated permits that are needed for construction or operation
27 of the proposed facility [OAR 345-021-0000(7)]. OAR 345-021-0010(1) identifies the required
28 contents of an application for a site certificate. Each of the paragraphs below indicates which
29 provision(s) of OAR 345-021-0010(1)(a) – (dd) will apply to the proposed Bakeoven Solar
30 Project. The application shall also include the information described in OAR 345-021-0010(3).

1 **(a) Exhibit A – General Information about the Applicant**

2 **Applicable Paragraphs:** All paragraphs apply except (C), (E), (F), and (G)

3 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

4 **Discussion:** Note that paragraph (B) calls for a list of “participating persons, other than
5 individuals.” Please note the definition of “Person” in ORS 469.300(21). Please also note that
6 the applicant is required to notify the Department of any change in the identity or ownership of
7 the applicant prior to the change.

8 **(b) Exhibit B – General Information about the Proposed Facility**

9 **Applicable Paragraphs:** All paragraphs apply except (A)(vi), (A)(vii), (A)(viii), and (E)(iv).
10 Paragraph (D) only applies if the proposed transmission line meets the definition of an energy
11 facility at ORS 469.300(11)(a)(C).

12 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

13 **Discussion:** The description of the proposed facility in the application will form the basis for the
14 description of the facility in the site certificate. Please note that construction laydown yards
15 must be considered in the application. The site certificate, if issued, would require that the
16 applicant build the facility “substantially as described” (OAR 345-027-0020). If the applicant
17 seeks flexibility in its facility description, such as facility footprint, number of facility
18 components, location of facility components within the site boundary, the applicant may
19 propose a micro siting corridor.

20 The Council has historically authorized a micro siting corridor within a site boundary, and in
21 some instances equivalent to the site boundary, when an applicant has adequately evaluated
22 impacts via desktop and field surveys from any location within the micro siting corridor.
23 Comprehensive field surveys of the entire micro siting corridor may not be required if another
24 method of impact assessment is suitable. However, the Department reserves the right to
25 require field surveys if it is determined that a different method of analysis is insufficient to
26 provide the level of information necessary to find the application complete. It is recommended
27 that the Department be consulted if the applicant wishes to propose alternative methods of
28 analysis than field surveys.

29 The application shall also describe all related or supporting facilities, including access roads,
30 operations and maintenance buildings, gen-tie transmission lines, substations, and any other
31 related and supporting facility proposed by the applicant. Please note the definition of related
32 or supporting facilities at ORS 469.300(24) includes those existing structures that must be
33 substantially modified in connection with the energy facility construction or operation. If the
34 applicant requests Council review and approval of transmission line route option(s), then all
35 routes need to be included within the site boundary and evaluated based on the applicable
36 analysis area.

1 **(c) Exhibit C – Location**

2 **Applicable Paragraphs:** All paragraphs apply.

3 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

4 **Discussion:** Maps shall indicate the site boundary, any proposed transmission line routes and
5 corridors, and micrositing corridors which the applicant seeks Council approval.

- 6 • Site boundary means the perimeter of the site of a proposed energy facility, its related
7 or supporting facilities, all temporary laydown and staging areas and all corridors and
8 micrositing corridors proposed by the applicant (OAR 345-001-0010(55))
- 9 • Micrositing corridor means a continuous area of land within which construction of
10 facility components may occur, subject to site certificate conditions (OAR 345-001-
11 0010(32))
- 12 • Transmission line corridor means a continuous area of land not more than one-half mile
13 in width and running the entire length of a proposed transmission line or pipeline (OAR
14 345-001-0010(13))

15
16 Maps shall provide enough information for property owners potentially affected by the
17 proposed facility to determine whether their property is within or adjacent to the site
18 boundary. Major roads shall be accurately named. The Department notes that the applicant has
19 already shared GIS data for the proposed facility, and requests updated GIS data if there are
20 changes to the site boundary or proposed facility layout between the NOI and the submittal of
21 the preliminary application.

22 **(d) Exhibit D – Organizational Expertise**

23 **Applicable Paragraphs:** All paragraphs apply.

24 **Related Council and Other Standards:** Organizational Expertise [OAR 345-022-0010]

25 **Discussion:** The Council’s review for the Organizational Expertise standard includes the
26 applicant’s ability to construct, operate, and retire the proposed facility in compliance with
27 Council standards and conditions of the site certificate. Please note that Exhibit D requires that
28 if the applicant relies upon mitigation to meet any applicable Council standard, that the
29 applicant provide evidence that it can successfully complete such proposed mitigation.

30 **(e) Exhibit E – Permits**

31 **Applicable Paragraphs:** All paragraphs apply.

32 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

33 **Discussion:** Exhibit E shall describe and discuss all permits that the applicant proposes to be
34 included in and governed by the site certificate, as well as state and local permits that are
35 related to the siting, construction, or operation of the proposed facility but are proposed by the
36 applicant to not be included in and governed by the site certificate. Exhibit E shall also describe
37 required federal and federally-delegated permits. For federally-delegated permits needed for

1 construction or operation, the applicant must submit a copy of the permit application to the
2 Department, as required under OAR 345-021-000(7).

3 Although the Council does not have jurisdiction over federally-delegated permits, the Council
4 may rely on the determinations of compliance and the conditions in federally-delegated
5 permits in evaluating the application for compliance with Council standards.

6 **Federally-delegated Permits**

7 ***Oregon Department of Environmental Quality — Water Quality Division***

8 **Permits**

- 9 • National Pollution Discharge Elimination System (NPDES) Construction Storm Water
10 1200-C permit

11 **Statute and Rule References**

- 12 • ORS Chapter 468B (Water Quality)
- 13 • OAR Chapter 340, Division 45 (Regulations Pertaining To NPDES and WPCF Permits)

14 **Discussion**

15 The EPA has delegated authority to DEQ to issue NPDES Storm Water Discharge permits for
16 construction and operation activities. Based upon the information in the NOI, an NPDES 1200-C
17 permit will be required for the construction of the facility. In accordance with OAR 345-021-
18 0000(7), the applicant must submit to the Department one copy of all applications for federally-
19 delegated permits (including the NPDES permit), or provide a schedule of the date by which the
20 applicant intends to submit the application. Note that the Department will not be able to find
21 the application for site certificate complete before receiving a copy of the NPDES permit
22 application and a response letter from the DEQ. The DEQ response letter must state that the
23 agency has received a permit application from the applicant, and provide an estimated date
24 when the agency will complete its review and issue a permit decision. The applicant may
25 incorporate this information into Exhibit I (Soils) or Exhibit BB (Other Information) of the site
26 certificate application.

27 **State Permits**

28 ***Oregon Department of State Lands***

29 **Permit**

- 30 • Removal-Fill Permit

31 **Statute and Rule References**

- 32 • ORS 196.795-990 (Removal of Material, Filling)
- 33 • OAR Chapter 141, Division 85 (Administrative Rules Governing the Issuance and
34 Enforcement of Removal-Fill Authorizations Within Waters of Oregon Including
35 Wetlands)

1 **Discussion**

2 A removal-fill permit is required if any removal or fill activities occur in streams designated as
3 Essential Indigenous Anadromous Salmonid Habitat or 50 cubic yards or more of material is
4 removed, filled or altered within a jurisdictional water of the state [OAR 141-085-0520(2) and
5 (5)]. Removal-fill permits are state permits under Council jurisdiction.

6 Based on the NOI, the Department understands that a removal-fill permit may be needed. If
7 needed, the applicant must provide the information required by Exhibit J. If a removal-fill
8 permit is needed, the applicant must conduct a wetland delineation, to be reviewed by
9 Department of State Lands (DSL) for concurrence, according to OAR Chapter 141, Division 90
10 rules. The wetland delineation determines the location of “waters of this state,” as defined in
11 OAR 141-085-0510(91), within the analysis area. If a removal-fill permit is required, the
12 application for site certificate shall include a wetland delineation report and an application for a
13 removal-fill permit which demonstrates consistency with ORS 196.825(1) and provides enough
14 information for considerations under ORS 196.825(3). The applicant should consult directly with
15 DSL regarding the applicable regulations.

16 ***Oregon Department of Environmental Quality***

17 **Permits**

- 18 • Onsite Sewage Disposal Construction-Installation Permit
- 19 • WPCF 1700-B Washwater Discharge from Equipment Cleaning
- 20 • WPCF General Permit 1000
- 21 • Clean Water Act Section 401 Water Quality Certification

22 **Statute and Rule References**

- 23 • ORS Chapter 454 (Sewage Treatment and Disposal Systems)
- 24 • ORS Chapter 468B (Water Quality)
- 25 • OAR Chapter 340, Division 45 (Regulations Pertaining To NPDES and WPCF Permits)
- 26 • OAR Chapter 340, Division 71 (Onsite Wastewater Treatment Systems)
- 27 • OAR Chapter 340, Division 48 (Certification of Compliance with Water Quality
28 Requirements and Standards)

29 **Discussion**

30 Facilities with an on-site sewage disposal system must obtain a Construction-Installation Permit
31 before construction. As described in the NOI, during operation the facility’s O&M building
32 would discharge sanitary waste (in the form of domestic wastewater) to a licensed on-site
33 septic system with a daily sewage flow of fewer than 2,500 gallons. The applicant indicates in
34 the NOI that its third-party contractor would obtain the necessary Construction-Installation
35 Permit directly from DEQ; this permit is therefore related to the siting and operation of the

1 proposed facility but would not be included in or governed by the site certificate (see the Third-
2 Party Permits discussion below).

3 Disposal of solar panel wash water would require a WPCF 1700-B Washwater Discharge from
4 Equipment Cleaning permit and disposal of concrete batch plant wash water (if a temporary
5 batch plant is necessary) would require a WPCF General Permit 1000. A WPCF 1700-B and
6 WPCF General Permit 1000 are state permits under Council jurisdiction. If the applicant's third-
7 party contractor would obtain the necessary WPCF 1700-B permit directly from DEQ, this
8 permit would not be included in and governed by the site certificate (see the Third-Party
9 Permits discussion below).

10

11 The 401 Water Quality Certification is required for projects that are processed under the U.S.
12 Army Corps of Engineers Section 404 Nationwide Permits. If a Section 404 Permit is needed
13 from U.S. Army Corps of Engineers (Corps) for the discharge of dredge or fill material in waters
14 of the United States, a Section 401 Water Quality Certificate must be granted by DEQ before a
15 Section 404 permit may be issued. The 401 WQC is a state-permit under Council jurisdiction and
16 is not federally-delegated. However, Council waives its right to include the 401 WQC under
17 EFSC jurisdiction, and as such, if required, the applicant shall secure such permit directly from
18 DEQ. The Department requests that the applicant submit to the Department one copy of its
19 application to DEQ, or provide a schedule of the date by which the applicant intends to submit
20 the application. The Department also requests that the applicant submit any DEQ response
21 letter. The applicant may incorporate this information into Exhibit BB (Other Information) of the
22 site certificate application.

23 ***Oregon Water Resources Department***

24 **Permits**

- 25 • Water Right Permit or Water Use Authorization
- 26 • Limited License

27 **Statute and Rule References**

- 28 • ORS 537.505-.795 and ORS 537.992
- 29 • OAR Chapter 690, Division 340 (Water Use Authorizations)

30 **Discussion**

31 As represented in NOI Exhibit E, the applicant may obtain construction related water from a
32 water right or limited water use license if the construction water is not available from municipal
33 providers. The NOI states that the applicant would obtain the necessary water right permit or
34 use authorization directly from OWRD. However, water use permits are state permits under
35 Council jurisdiction and **must** be included in and governed by the site certificate. If needed, a
36 water right permit, water use authorization, or limited license must be processed through the
37 EFSC review process and cannot be independently secured by the applicant from OWRD.

1 Additionally, the NOI indicates that the operation and maintenance (O&M) building(s) would
2 consume water to the extent of supporting less than 20 people. The applicant may consider
3 constructing an on-site well to supply the water needs for the O&M building(s). A limited water
4 license or permit would be required if the well would provide more than 5,000 gallons of water
5 per day, and if necessary, a limited that license or permit would be included and governed by
6 the site certificate.

7 ***Oregon Department of Transportation***

8 **Permits**

- 9 • Oversize Load Movement Permit/Load Registration
- 10 • Access Management Permit
- 11 • Permit to Occupy or Perform Operations Upon a State Highway

12 **Statute and Rule References**

- 13 • ORS 818.030 (Exemptions from Weight Limitations)
- 14 • OAR Chapter 734, Division 82 (Variance Permits Issued for Non-Divisible Loads and Road
15 Use Assessment Fees)
- 16 • OAR Chapter 734, Division 51 (Highway Approaches, Access Control, Spacing Standards,
17 and Medians)
- 18 • OAR Chapter 734, Division 55 (Pole Lines, Buried Cables, and Miscellaneous Operations)

19 **Discussion**

20 Various permits from Oregon Department of Transportation (ODOT) may be required prior to
21 construction of the facility. Access from Oregon state highways would require an access permit.
22 Utility installations within the right-of-way of a state highway in Oregon require an Occupy or
23 Perform Operations upon a State Highway permit. Movement of construction cranes and other
24 large equipment and materials could also require an Oversize Load Movement permit. These
25 permits are not related to facility siting and are not included in or governed by the site
26 certificate. The applicant or its contractor must secure any applicable ODOT permits directly
27 from ODOT, independent of the site certificate process. The impacts associated with road use
28 and modifications, however, must be evaluated in Exhibit U.

29 ***State Historic Preservation Office***

30 **Permits**

- 31 • Archaeological Excavation Permit

32 **Statute and Rule References**

- 33 • ORS Chapter 97, 358, and 390;
- 34 • OAR Chapter 736, Division 51

1 **Discussion**

2 This permit is required if excavation is needed within the boundaries of a known cultural site
3 regardless of land ownership. If disturbance to cultural sites cannot be avoided, a State Historic
4 Preservation Office (SHPO) Archaeological Permit will be required to determine if cultural sites
5 are eligible for listing under the National Register of Historic Places (NRHP). An excavation
6 permit will also be required for any data recovery mitigation efforts within an NRHP-eligible
7 site.

8 During facility construction, if a previously unidentified archaeological site is discovered, all
9 construction will cease and the applicant will report the finding to SHPO and ODOE
10 immediately. In that instance, the permit may be required based on SHPO's determination. This
11 permit will not be included in and governed by the site certificate.

12 SHPO issues archaeological excavation permits in accordance with ORS 390.235 and OAR 736-
13 051-0000 through 0090. Archaeological permits have a 30-day review period, require tribal
14 consultation during review, and must meet SHPO standards.

15 **Local Permits**

16 **Permits**

- 17 • Wasco County Conditional Use and Zoning Permit
- 18 • Wasco County Utility Crossing Permit and Access Approach Site Permit
- 19 • Wasco County Building Permit

20 **Land Use Ordinance References**

- 21 • Wasco County Comprehensive Plan
- 22 • Wasco County Land Use and Development Ordinance

23 Wasco County has permitting requirements that may or may not relate to the siting,
24 construction or operation of the proposed facility. The applicant shall identify those permits or
25 approvals and include an analysis of whether each shall be included in and governed by the site
26 certificate.

27 As stated in NOI, the applicant requests that EFSC determine compliance with the substantive
28 criteria of all affected local governments' comprehensive plans and land use ordinances under
29 ORS 469.504(1)(b). The conditional use permit shall be included in and governed by the site
30 certificate. Building permits are specifically excluded from EFSC jurisdiction by statute, ORS
31 469.401(4).

32 **Third-Party Permits**

33 As noted in the NOI, the applicant may rely upon third-party permits in its application for site
34 certificate. If the applicant relies upon a state or local government permit issued to a third party
35 that is related to the siting of the proposed facility, the applicant must identify each third-party
36 permit, and, for each, include evidence that the applicant has, or has a reasonable likelihood of
37 entering into, a contract or other agreement with the third party for access to the resource or

1 service to be secured by that permit; evidence that the third party has or, has a reasonable
2 likelihood of obtaining, the necessary permit; and, an assessment of the impact of the proposed
3 facility on any permits that a third party has obtained and on which the applicant relies to
4 comply with any applicable Council standard (OAR 345-021-0010(1)(e)(E)).

5 If the applicant relies on a federally-delegated permit issued to a third party that is related to
6 the siting of the proposed facility, the applicant must identify the third-party permit and include
7 evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or
8 other agreement with the third party for access to the resource or service to be secured by that
9 permit. The applicant must provide evidence that the responsible agency has received the
10 permit application, and provide the estimated date when the responsible agency will complete
11 its review and issue a permit decision (OAR 345-021-0010(1)(e)(F)).

12 **(f) Exhibit F – Property Owners**

13 **Applicable Paragraphs:** Paragraph (C) of the Rule applies.

14 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

15 **Discussion:** As the proposed facility would be located entirely within Exclusive Farm Use zoned
16 land, OAR 345-020-0011(1)(f)(C) applies and requires notice to property owners within 500 feet
17 of the site boundary. The Council requires notice to all owners of record, as shown on the most
18 recent property tax assessment roll within the specified distance from the proposed site
19 boundary. In order to ensure notifications are provided using the an up-to-date property owner
20 list, Exhibit F in the pASC shall indicate that, pursuant to direction by the Department, the
21 property owner list will be generated just prior to the Department’s determination of
22 application completeness and in coordination with Department staff.

23
24 The property owner notification list must be accompanied by maps that include the site
25 boundary, the area surrounding the site boundary consistent with the OAR 345-021-
26 0010(1)(f)(C) site distance requirement, and the properties/tax lots that are within the
27 applicable distances. Maps shall correspond to the property owner list, be legible and clearly
28 identify tax lot ID numbers as well as adjacent road names, as applicable.

29 **(g) Exhibit G – Materials Analysis**

30 **Applicable Paragraphs:** All paragraphs apply.

31 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]; Soil
32 Protection [OAR 345-022-0022]

33 **Discussion:** The applicant shall include in the application any proposed fuel storage areas,
34 vehicle maintenance areas, or other areas that will be utilized for activities that could store
35 hazardous materials, including potential battery storage facilities. The applicant shall identify
36 the expected storage locations and quantities of hazardous and non-hazardous materials
37 expected to be used during construction and operation of the proposed facility.

1 **(h) Exhibit H – Geologic and Soil Stability**

2 **Applicable Paragraphs:** All paragraphs apply

3 **Related Council and Other Standards:** Structural Standard [OAR 345-022-0020]

4 **Discussion:** The Oregon Department of Geology and Mineral Industries (DOGAMI) provides
5 technical review and recommendations on compliance with the Council’s Structural Standard.
6 The applicant must provide a summary of consultation with DOGAMI regarding the appropriate
7 methodology and scope of the seismic hazards and geology and soil-related hazards
8 assessments, and the appropriate site-specific geotechnical work that must be performed for
9 the application.

10 A geologic report included in Exhibit H shall meet the Oregon State Board of Geologist
11 Examiners geologic report guidelines, as determined based on consultation with DOGAMI.

12 As described in the Structural Standard at OAR 345-022-0020(2), the Council may not impose
13 the Structural Standard to approve or deny an application for site certificate for a proposed
14 facility that would produce power from solar energy, though the Council may apply the
15 requirements of OAR 345-022-0020(1) to impose conditions on a site certificate issued for
16 such a facility.

17 **(i) Exhibit I – Soils**

18 **Applicable Paragraphs:** All paragraphs apply.

19 **Related Council and Other Standards:** Soil Protection [OAR 345-022-0022]

20 **Discussion:** This exhibit shall identify the major soil types and include a description of current
21 and historical, if distinct from current, land uses that require or depend on productive soils. The
22 applicant shall include information describing the impact of construction and operation of the
23 proposed facility on soil conditions in the analysis area, including potential impacts to soils on
24 adjacent properties. The application can cross-reference information related to the federally-
25 delegated NPDES 1200-C permit application, as applicable. An erosion and sediment control
26 plan must be provided for review if the applicant will rely upon the erosion and sediment
27 control plan to meet the Soil Protection standard. Please note that an erosion and sediment
28 control plan that meets the NPDES 1200-C requirements may not necessarily be sufficient to
29 meet the EFSC Soil Protection standard.

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1 **(j) Exhibit J – Waters of the State and Removal-Fill**

2 **Applicable Paragraphs:** All paragraphs apply.

3 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000];
4 Removal of Material, Filling [ORS 196.795-.990]; Administrative Rules Governing the Issuance
5 and Enforcement of Removal-Fill Authorizations within Waters of Oregon Including Wetlands
6 [OAR Chapter 141, Division 85]

7 **Discussion:** Per the Exhibit J requirement, the application shall include a description of all areas
8 within the site boundary that might be waters of this state and a map(s) showing the location of
9 these features. Based on the NOI, ODOE understands that a removal-fill permit may necessary
10 for the facility. As such, the information required for Council to make a decision on the
11 removal-fill permit application must be included in the application. Wetland delineation reports
12 and removal-fill permit application materials can be sent directly by the applicant to the Oregon
13 Department of State Lands (DSL); however, please note that all materials must also be
14 submitted to the Department as part of the application for site certificate. The Department will
15 work closely with DSL in review of any wetland delineation report and removal-fill permit
16 application. For EFSC-jurisdictional facilities, authorization of a removal-fill permit is an EFSC
17 decision, should a permit be issued, DSL will maintain the ongoing responsibility for compliance
18 with any associated permit conditions.

19 **(k) Exhibit K – Land Use**

20 **Applicable Paragraphs:** Paragraphs (A) and (C) of the rule apply.

21 **Related Council and Other Standards:** Land Use [OAR 345-022-0030];

22 **Discussion:** The Council’s Land Use standard requires an evaluation for compliance with the
23 statewide planning goals. Under 469.504(1), the applicant may establish compliance with the
24 applicable statewide planning goals either by obtaining local land use approval under ORS
25 469.504(1)(a) or by obtaining Council approval under ORS 469.504(1)(b). The applicant has
26 indicated in the NOI that it has elected to seek a Council determination of compliance under
27 ORS 469.504(1)(b). Within Exhibit K, since the applicant has elected to obtain a Council
28 determination on land use under ORS 469.504(1)(b), paragraphs A and C of OAR 345-021-
29 0010(1)(k) apply; paragraph B does not apply. The Department understands that the proposed
30 facility is not located on federal land, so paragraph (D) does not apply.

31 The facility would be located on EFU-zoned land in Wasco County. Pursuant to ORS 469.480 and
32 in preparation for review of the proposed facility, at its November 16, 2018 meeting the Council
33 appointed the Wasco County Board of County Commissioners as a Special Advisory Group. As
34 provided in ORS 469.401(3), if the Council issues a site certificate, Wasco County would be
35 bound to issue all required permits and other land use approvals, subject to the conditions set
36 forth in the site certificate, that are included in and governed by the site certificate. The
37 applicant shall discuss each applicable substantive criteria from the Wasco County
38 Comprehensive Plan and Wasco County Land Use and Development Ordinance, and shall
39 demonstrate how the proposed facility complies with those criteria. The SAG provided its list of
40 applicable substantive criteria in a comment letter on the NOI. If the proposed facility does not

1 comply with one or more of the applicable substantive criteria, the applicant must demonstrate
2 that the proposed facility nevertheless complies with the applicable statewide planning goals or
3 that an exception to a goal is justified under ORS 469.504(2) and OAR 345-022-0030(4).

4 Exhibit K shall also provide evidence that the proposed facility would comply with any directly-
5 applicable Land Conservation and Development Commission (LCDC) administrative rules and
6 statutory requirements related to the proposed facility, including ORS 215.283 and 215.274,
7 and specifically including all requirements regarding the location of the proposed facility within
8 the EFU zone. Exhibit K shall provide evidence that the proposed facility would comply with the
9 applicable administrative rules at OAR 660-033-0130(38) related to development of solar power
10 generation facilities, as well as rules related to associated transmission lines to energy
11 generating facilities.

12
13 Solar photovoltaic facilities that are proposed to use more than 12 acres of high-value
14 farmland, 20 acres of arable land, or 320 acres of other land require a Goal 3 exception. The
15 Council’s goal exception process is described at OAR 345-022-0030(4). A Goal 3 exception is
16 necessarily based on site-specific issues and reasons; as such, the applicant must provide site-
17 specific evidence that the proposed facility should be granted a Goal 3 exception.

18 **(I) Exhibit L – Protected Areas**

19 **Applicable Paragraphs:** All paragraphs apply.

20 **Related Council and Other Standards:** Protected Areas [OAR 345-022-0040]

21 **Discussion:** The application must address the potential impacts to protected areas identified in
22 OAR 345-022-0040 within the analysis area. Please note that compliance with the DEQ noise
23 rules (Exhibit X) does not correlate to compliance with the noise assessment considered in the
24 Protected Areas standard. Particularly, while construction noise is exempt from the DEQ noise
25 rules, construction noise must be considered under the Protected Areas standard. However,
26 information developed to demonstrate compliance with the DEQ noise rules (such as noise
27 modeling) can be used in the assessment under the Protected Areas standard. A visual impact
28 assessment is required as part of Exhibit L; while no specific methodology are required by EFSC
29 rule, the applicant must demonstrate why the proposed facility is compliance with the
30 Protected Areas standard. Visual simulations or other visual representations are not required,
31 but can provide important evidence for use by the Department and Council in understanding
32 the potential visual impact of the proposed facility to Protected Areas.

33 Please note that the Department establishes the Exhibit L analysis area as 10-miles from the
34 site boundary based on the scope and scale of the proposed facility and the limited nature of
35 potential impacts to protected areas located greater than 10-miles from the site boundary.

1 **(m) Exhibit M – Financial Capability**

2 **Applicable Paragraphs:** All paragraphs apply.

3 **Related Council and Other Standards:** Retirement and Financial Assurance [OAR 345-022-0050]

4 **Discussion:** The application shall include information about the applicant’s financial capability,
5 including the applicant’s legal authority to construct and operate the proposed facility without
6 violating its bond indenture provisions, articles of incorporation, common stock covenants, or
7 similar agreements. To find that the proposed facility satisfies the Financial Assurance Standard
8 (OAR 345-022-0050(2)), the Council must find that the applicant has a reasonable likelihood of
9 obtaining a bond or letter of credit in a form and amount satisfactory to the Council to restore
10 the site to a useful, non-hazardous condition. The application shall include the type and amount
11 of the applicant’s proposed bond or letter of credit to satisfy the requirements of OAR 345-022-
12 0050.

13 **(n) Exhibit N – Non-Generating Facility Need**

14 **Applicable Paragraphs:** Exhibit N does not apply because the proposed facility is not a
15 nongenerating facility for which the applicant must demonstrate need for the facility.

16 **(o) Exhibit O – Water Use**

17 **Applicable Paragraphs:** All paragraphs apply except (D).

18 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]; OAR
19 690, Divisions 310 and 380 (Water Resources Department permitting requirements)

20 **Discussion:** Exhibit O of the application must describe water use during construction and
21 operation of the proposed facility. The application must identify the sources of water to be
22 used, and include an estimate of the amount of water the facility will need during construction
23 and during operation from each source under annual average and worst-case conditions.

24 If the proposed facility does not need a groundwater permit, a surface water permit, or a water
25 right transfer, Exhibit O shall include an explanation as to why such a permit or transfer is not
26 required for construction and operation of the proposed facility, as required by paragraph (E). If
27 such a permit is necessary, the application shall include the evidence and application materials
28 to support a determination by Council that OWRD should issue such a permit.

29 **(p) Exhibit P – Fish and Wildlife Habitat**

30 **Applicable Paragraphs:** All paragraphs apply.

31 **Related Council and Other Standards:** Fish and Wildlife Habitat [OAR 345-022-0060]

32 **Discussion:** The applicant shall consult with ODFW in developing the application materials.
33 Exhibit P shall include analysis of how the evidence provided supports a finding by the Council
34 that the proposed facility meets the Council’s Fish and Wildlife Habitat standard. OAR 345-021-
35 0010(1)(p) provides that exhibit P must include a description of biological and botanical surveys
36 performed that support the information in this exhibit, including a discussion of the timing and
37 scope of each survey. Exhibit P must also provide baseline surveys of all state sensitive species

1 that may be present in the analysis area performed according to a protocol approved by the
2 Department and ODFW. The applicant shall note that analysis areas defined in this Project
3 Order are to be used for the assessment of impacts to the associated resource. The applicant is
4 not required to perform comprehensive field surveys of the entire analysis area if another
5 method of impact assessment is suitable. However, the Department reserves the right to
6 require field surveys if it is determined that a different method of analysis is insufficient to
7 provide the level of information necessary to find the application complete. It is recommended
8 that the Department be consulted if the applicant wishes to propose alternative methods of
9 analysis than field surveys.

10 The comment letter submitted by ODFW on January 14, 2019, identified the proposed facility
11 would be located within ODFW's 2013 mapped Big Game Winter Range habitat. Big game
12 winter range is classified as Category 2 habitat. The applicant shall include a description of the
13 nature, extent, and duration of potential adverse impacts and a description of any proposed
14 mitigation measures, consistent with the Exhibit P requirements, the EFSC Fish and Wildlife
15 Habitat standard, and the ODFW Habitat Mitigation Policy.

16 Oregon Fish and Wildlife Habitat Mitigation Policy (OAR Chapter 635, Division 415) classifies six
17 habitat categories and establishes a mitigation goal for each category. The applicant must
18 identify the appropriate habitat category for all areas affected by the proposed facility and
19 provide the basis for each category designation. The habitat classification is subject to the
20 Department and ODFW review. As noted, ODFW commented that the proposed facility would
21 be located within mapped big game winter range and as such, is considered Category 2 habitat.
22 ODFW considers all habitat within mapped winter range to be Category 2 habitat, with the
23 exception of dryland wheat in the Columbia Plateau Ecoregion.

24 A map showing the different habitat categories is required under sub-paragraph (C) of OAR
25 345-021-0010(1)(p), and inclusion of vegetation classes within the map is recommended. The
26 map must be of sufficient scale to show details. Exhibit P must include tables depicting the
27 estimated temporary and permanent impacts, broken down by habitat categories and subtype.
28 The applicant must show how it would comply with the habitat mitigation goals and standards
29 by appropriate monitoring and mitigation, including measures proposed by the applicant to
30 avoid, reduce, or mitigate adverse impacts on habitat and state sensitive species. This
31 information shall be incorporated into a proposed Revegetation and Noxious Weed Control
32 Plan and a proposed Habitat Mitigation Plan (HMP) as attachments to Exhibit P. Exhibit P and
33 the HMP must clearly demonstrate how the applicant will provide mitigation, including
34 compensatory mitigation, in accordance with the Council's standard. This includes identifying in
35 the HMP a specific habitat mitigation area that could be used to provide compensatory
36 mitigation, as well as ecological uplift mitigation actions that could be implemented at the
37 habitat mitigation area to provide the appropriate mitigation. This information is required for
38 the Department to find the application complete.

39 If the applicant proposes an alternative method of demonstrating compliance with the standard
40 (for example, a "payment to provide" type of mitigation), please be aware that the Department

1 and ODFW will need detailed information in order to validate that the alternative method will
2 be in compliance with the standard.

3 **(q) Exhibit Q – Threatened and Endangered Species**

4 **Applicable Paragraphs:** All paragraphs apply.

5 **Related Council and Other Standards:** Threatened and Endangered Species [OAR 345-022-
6 0070]

7 **Discussion:** The Oregon Department of Agriculture provides technical review and
8 recommendations regarding compliance with the Council’s Threatened and Endangered Species
9 standard (OAR 345-022-0070) as it relates to plant species, and ODFW provides technical
10 review and recommendations related to fish and wildlife species. However, the Department has
11 been informed that the Oregon Department of Agriculture no longer supports this program. As
12 such, the Department will conduct the review on behalf of Department of Agriculture and may
13 engage an outside consultant to support its review.

14 The application shall include a list of state-listed endangered and threatened, species that have
15 potential to occur in the analysis area. The applicant shall identify these species based on a
16 review of literature, consultation with knowledgeable individuals, and reference to the list of
17 species maintained by the Oregon Biodiversity Information Center.

18 For state-listed threatened or endangered plant species, field surveys are required for any
19 species that may occur within the analysis area and may potentially be impacted by the facility.
20 The applicant is not required to perform comprehensive field surveys of the entire analysis area
21 if another method of impact assessment is suitable. However, the Department reserves the
22 right to require field surveys if it is determined that a different method of analysis is insufficient
23 to provide the level of information necessary to find the application complete. It is
24 recommended that the Department be consulted if the applicant wishes to propose alternative
25 methods of analysis than field surveys. The applicant shall consult with the Department and
26 ODFW regarding field survey methods, appropriate survey seasons, qualifications of field survey
27 personnel, and the information to be included in a field survey report.

28 **(r) Exhibit R – Scenic Resources**

29 **Applicable Paragraphs:** All paragraphs apply.

30 **Related Council and Other Standards:** Scenic Resources [OAR 345-022-0080]

31 The application shall include an analysis of significant potential impacts of the proposed facility,
32 if any, on scenic resources identified as significant or important in local land use plans, tribal
33 land management plans and federal land management plans for any lands located within the
34 analysis area. For the purposes of Exhibit R, “local” land use plans include state, county, and city
35 planning documents or inventories. The applicant shall also describe the measures it proposes
36 to avoid, reduce, or otherwise mitigate any significant adverse impacts to these scenic
37 resources. A visual impact assessment is required as part of Exhibit R; while no specific
38 methodology is required by EFSC rule, the applicant must demonstrate why the proposed
39 facility is compliance with the Scenic Resources standard. Visual simulations or other visual

1 representations are not required, but can provide important evidence for use by the
2 Department and Council in understanding the potential visual impact of the proposed facility to
3 Scenic Resources.

4 **(s) Exhibit S – Historic, Cultural and Archaeological Resources**

5 **Applicable Paragraphs:** All paragraphs apply.³

6 **Related Council and Other Standards:** Historic, Cultural, and Archaeological Resources [OAR
7 345-022-0090]

8 **Discussion:** The application shall include the survey methodology, survey areas, and the results
9 of all surveys conducted for historic, cultural, and archaeological resources, as well as an
10 analysis of any significant adverse impacts anticipated and proposed mitigation measures. The
11 applicant shall work closely with the State Historic Preservation Office (SHPO) to understand
12 the report formatting and submission requirements, and to receive guidance on any survey
13 protocols.

14 The applicant is not required to perform comprehensive field surveys of the entire analysis area
15 if another method of impact assessment is suitable. However, the Department reserves the
16 right to require field surveys if it is determined that a different method of analysis is insufficient
17 to provide the level of information necessary to find the application complete. It is
18 recommended that the Department be consulted if the applicant wishes to propose alternative
19 methods of analysis than field surveys.

20 It is recommended that the applicant discuss the proposed facility with the potentially affected
21 tribes identified by the Legislative Commission on Indian Services, including the Confederated
22 Tribes of Warm Springs and the Burns Paiute Tribe.

23 As described in the Historic, Cultural, and Archaeological Resources standard at OAR 345-022-
24 0090(2), the Council may issue a site certificate for a facility that would produce power from
25 solar energy without making the findings of the Historic, Cultural, and Archaeological Resources
26 standard at OAR 345-022-0090(1), though the Council may apply the requirements of OAR 345-
27 022-0090(1) to impose conditions on a site certificate issued for such a facility.

28 **(t) Exhibit T – Recreation**

29 **Applicable Paragraphs:** All paragraphs apply.

30 **Related Council and Other Standards:** Recreation [OAR 345-022-0100]

31 **Discussion:** The application shall analyze the importance of recreational opportunities in the
32 analysis area using the factors listed in OAR 345-022-0100(1), discuss any significant potential

³ Information concerning the location of archaeological sites or objects may be exempt from public disclosure under ORS 192.501(11). Specific location information about cultural resources shall not be included in the text of application for a site certificate. Such information, including archaeological survey reports, shall be provided confidentially under separate cover in hard copy format only after consultation with the Department. Confidential material shall also be provided directly to SHPO, following guidance from the Department and SHPO. Please contact the Department to discuss current practices regarding treatment and submittal of confidential material.

1 adverse impacts to important recreational opportunities, and describe measures proposed to
2 avoid, minimize or mitigate those impacts. List all recreational opportunities in the analysis area
3 and the applicant’s analysis of whether those recreational opportunities are considered
4 “important” or not. As described under the Protected Areas standard section above, please
5 note that compliance with the DEQ noise rules (Exhibit X) does not correlate to compliance with
6 the noise assessment considered in the Recreation standard. Particularly, while construction
7 noise is exempt from the DEQ noise rules, construction noise must be considered under the
8 Recreation standard. However, information developed to demonstrate compliance with the
9 DEQ noise rules (such as noise modeling) can be used in the assessment under the Recreation
10 standard. A visual impact assessment is required as part of Exhibit T; while no specific
11 methodology is required by EFSC rule, the applicant must demonstrate why the proposed
12 facility is compliance with the Recreation standard. Visual simulations or other visual
13 representations are not required, but can provide important evidence for use by the
14 Department and Council in understanding the potential visual impact of the proposed facility to
15 important Recreation sites.

16 **(u) Exhibit U – Public Services**

17 **Applicable Paragraphs:** All paragraphs apply.

18 **Related Council and Other Standards:** Public Services [OAR 345-022-0110]

19 **Discussion:** The application shall provide information related to the proposed facility’s potential
20 impacts to the ability of public and private providers within the analysis area to provide: sewers
21 and sewage treatment, water, storm water drainage, solid waste management, housing, traffic
22 safety, police and fire protection, health care and schools (OAR 345-022-0110). Applications for
23 site certificate typically include letters from local public services providers, including local fire
24 departments and police departments, to demonstrate that the proposed facility will not cause a
25 significant adverse impact on the ability of those providers to provide their services, in
26 accordance with the Public Services standard.

27 As described in the Public Services standard at OAR 345-022-0110(2), the Council may issue a
28 site certificate for a facility that would produce power from solar energy without making the
29 findings of the Public Services standard at OAR 345-022-0110(1), though the Council may apply
30 the requirements of OAR 345-022-0110(1) to impose conditions on a site certificate issued for
31 such a facility.

32 **(v) Exhibit V – Solid Waste and Wastewater**

33 **Applicable Paragraphs:** All paragraphs apply

34 **Related Council and Other Standards:** Waste Minimization [OAR 345-022-0120]; Public Services
35 [OAR 345-022-0110]

36 **Discussion:** To support a finding by the Council as required by OAR 345-022-0120, the
37 application shall provide information about the applicant’s plans to minimize the generation of
38 solid waste and wastewater in the construction and operation of the facility, and to recycle or

1 reuse solid waste and wastewater. Information in Exhibit V may be incorporated by reference in
2 Exhibit U's discussion of impacts to solid waste and wastewater service providers.

3 As described in the Waste Minimization standard at OAR 345-022-0120(2), the Council may
4 issue a site certificate for a facility that would produce power from solar energy without making
5 the findings of the Waste Minimization standard at OAR 345-022-0120(1), though the Council
6 may apply the requirements of OAR 345-022-0120(1) to impose conditions on a site certificate
7 issued for such a facility.

8 **(w) Exhibit W – Facility Retirement**

9 **Applicable Paragraphs:** All paragraphs apply.

10 **Related Council and Other Standards:** Retirement and Financial Assurance [OAR 345-022-0050]

11 **Discussion:** The application shall provide an estimate of the total and unit retirement costs
12 including a detailed explanation, assumptions, and justification of the methodology it uses to
13 estimate site restoration costs. The Council's Retirement standard requires evidence that the
14 site can be restored, following facility retirement, to a useful and non-hazardous condition.

15 **(x) Exhibit X – Noise**

16 **Applicable Paragraphs:** All paragraphs apply.

17 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]; DEQ
18 Noise Control Regulations [ORS 467.020 and ORS 467.030; OAR 340, Division 35]

19 **Discussion:** The application shall contain a noise analysis and information to support a Council
20 finding that the proposed facility would comply with applicable DEQ noise control standards in
21 OAR 340-035-0035.

22 Please note that the Exhibit X analysis area includes all sensitive receptors that would
23 experience a predicted 10 or 50 A-weighted decibel (dBA) increase from the proposed facility in
24 ambient noise level and maximum allowable noise level, respectively. Identification of noise
25 sensitive properties within 1-mile of the proposed site boundary is required; however, noise
26 impacts may impact fewer or more noise sensitive properties than those within 1-mile of the
27 proposed site boundary.

28 **(y) Exhibit Y – Carbon Dioxide Emissions**

29 **Applicable Paragraphs:** Exhibit Y does not apply because the proposed facility is not a base load
30 gas plant, a non-base load power plant, or a non-generating energy facility that emits carbon
31 dioxide.

32 **(z) Exhibit Z – Cooling Tower Impacts**

33 **Applicable Paragraphs:** Exhibit Z does not apply because the proposed facility would not
34 include an evaporative cooling tower.

35 **(aa) Exhibit AA – Electric and Magnetic Fields**

36 **Applicable Paragraphs:** All paragraphs apply.

1 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

2 **Discussion:** As the proposed facility would have a transmission line as a related and supporting
3 facility, the provisions of Exhibit AA apply.

4 **(bb) Exhibit BB – Other Information**

5 **Related Council Standard:** General Standard of Review [OAR 345-022-0000]

6 No additional information is required.

7 **(cc) Exhibit CC – Other Law**

8 **Related Council Standard:** General Standard of Review [OAR 345-022-0000]

9 All requirements apply.

10 **(dd) Exhibit DD – Specific Standards**

11 **Applicable Paragraphs:** Paragraph (C) applies.

12 **Related Council and Other Standards:** Specific Standards for Transmission Lines [OAR 345-024-
13 0090]

14 **Discussion:** The Council applies specific standards for transmission lines under its jurisdiction in
15 OAR 345-024-0090. The applicant shall provide analysis regarding compliance with OAR 345-
16 024-0090 in Exhibit DD.

17 **IV. ANALYSIS AREAS FOR THE PROPOSED FACILITY**

18 The analysis areas are the areas that the applicant must study for potential impacts from the
19 construction and operation of the proposed facility. Some of the analysis areas described in this
20 Project Order do not limit the applicant's responsibility to assess the potential impacts of the
21 facility. They are the areas in which significant adverse impacts from the proposed facility are
22 likely to occur. If significant impacts associated with the applicable Council standards⁴ could
23 occur beyond the analysis areas described here, then the applicant must assess those impacts
24 in the application for a site certificate and show how the facility would comply with the
25 applicable standard with regard to the larger area where impacts could occur.

26 For all potential impacts, the analysis area includes all the area within the site boundary, as
27 defined in OAR 345-001-0010(55) as well as any additional distances beyond the site boundary
28 described in Table 2, *Analysis Areas* below. The application for site certificate must specifically
29 describe the site boundary and provide a map showing the proposed site boundary, including
30 all related and supporting facilities. The minimum required analysis areas are presented in
31 Table 2, *Analysis Areas*.

⁴ OAR 345-022-0080 - Scenic Resources, OAR 345-022-0100 – Recreation, and OAR 345-022-0110 - Public Services directly reference the analysis area as described in the Project Order.

Table 2: Analysis Areas

Affected Standard or Resource	Exhibit	Analysis Area⁵
Structural Standard	Exh. H	The area within the site boundary, notwithstanding the distances related to an assessment of seismic hazards required by OAR 345-021-0010(1)(h).
Soil Protection	Exh. I	The area within the site boundary.
Wetlands	Exh. J	The area within the site boundary.
Land Use	Exh. K	The area within the site boundary and 0.5 miles from the site boundary.
Protected Areas	Exh. L	The area within the site boundary and 10 miles from the site boundary.
Fish and Wildlife Habitat	Exh. P	The area within the site boundary and 0.5 miles from the site boundary.
Threatened and Endangered Species	Exh. Q	The area within the site boundary and 5 miles from the site boundary.
Scenic Resources	Exh. R	The area within the site boundary and 10 miles from the site boundary.
Historic, Cultural and Archaeological Resources	Exh. S	The area within the site boundary.
Recreation	Exh. T	The area within the site boundary and 5 miles from the site boundary.
Public Services	Exh. U	The area within the site boundary and 10 miles from the site boundary.

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V. COMMENTS ON THE NOTICE OF INTENT

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3 The Department received 11 reviewing agency comment letters on the NOI; no comments from
4 members of the public were received. Comments submitted are on-the record and must be
5 provided in written form, such as an email or letter. These comments have been provided
6 under separate cover to the applicant and are incorporated by reference in this order. Within
7 each applicable exhibit of the application, the applicant shall address those concerns raised by
8 reviewing agencies that are within the jurisdiction of the Council.

VI. EXPIRATION DATE OF THE NOTICE OF INTENT

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10 In accordance with OAR 345-020-0060, the Bakeoven Solar Project NOI will expire two years
11 after the date of submittal, on February 1, 2021, unless the applicant submits a petition to
12 Council to extend the expiration date. Such a petition must be submitted no less than 45 days

⁵ The applicant shall note that analysis areas defined in this Project Order are to be used for the assessment of impacts to the associated resource. The applicant is not required to perform comprehensive field surveys of the entire analysis area if another method of impact assessment is suitable. However, the Department reserves the right to require field surveys if it is determined that a different method of analysis is insufficient to provide the level of information necessary to find the application complete. It is recommended that the Department be consulted if the applicant wishes to propose alternative methods of analysis than field surveys.

1 before the NOI expiration date. If the Council finds that the extension petition shows good
2 cause, it may extend the NOI expiration date by up to one year.

3 **VII. PROJECT ORDER AMENDMENT AND APPLICATION COMPLETENESS**

4 The Council or the Department may, based on changes in regulatory requirements prior to site
5 certificate execution, changes proposed by the applicant in an application for site certificate, or
6 changes proposed by a certificate holder in a request for amendment, amend this Project Order
7 at any time [OAR 345-015-0160(3)]. Amendment may include changes to the analysis areas. To
8 issue a site certificate, the Council must determine that the proposed facility complies with
9 Oregon statutes and administrative rules identified in the Project Order, as amended, as
10 applicable to the issuance of a site certificate for the proposed facility (ORS 469.503(3)).

11 Under OAR 345-015-0190(5), when the Department determines the application for a site
12 certificate contains adequate information for the Council to make findings or impose conditions
13 on all applicable Council standards, the Department will find the application for a site certificate
14 complete. The Department may find the application complete without requiring the applicant
15 to submit all information described under OAR 345-021-0000 and 0010. In accordance with
16 OAR 345-015-0190(9), after a determination that an application for a site certificate is
17 complete, the Department may require additional information from the applicant if the
18 Department identifies a need for that information during its review of the application for a site
19 certificate.

20 **VIII. APPLICABILITY AND DUTY TO COMPLY**

21 Failure to include an applicable statute, rule, ordinance, permit or other requirement in this
22 Project Order does not render that statute, rule, ordinance, permit or other requirement
23 inapplicable, nor in any way relieves applicant from the duty to comply with the same.

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1 **Project Order**

2 The Department issues this Project Order for the proposed Bakeoven Solar Project on February
3 1, 2019.

The OREGON DEPARTMENT OF ENERGY

By: 

**Todd Cornett, Assistant Director
Oregon Department of Energy, Energy Facility Siting Division**

10 **Date of Issuance: February 1, 2019**

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