



Oregon

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To: Energy Facility Siting Council

From: Tom Jackman,

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Subject: Agenda Item F (Action Item):
Soil, Structural & Waste Minimization Standard Phase III Rulemaking Initiation
for the July 24, 2026 EFSC Meeting

STAFF RECOMMENDATION

Staff recommends that the Council initiate informal proceedings on a Phase 3 standards review rulemaking for the Structural Standard, Soil Protection Standard, and Waste Minimization Standard. Staff recommends that Council approve the scope and general direction of the rulemaking as outlined below. Staff also requests that the Council approve a Rulemaking Advisory Committee (RAC) to assist in the development of draft proposed language and appoint staff to seek out interested parties to appoint to the RAC as outlined below. Please note that the Council is not being asked at this time to consider proposed rule amendments or the adoption of permanent rules.

BACKGROUND

As part of the 2025-2027 Rulemaking Schedule, the Council directed staff to explore a series of Phase 3 rulemakings designed to review and update the Council's siting standards and associated information requirements in OAR chapter 345, division 22. This review is part of a phased approach for holistically reviewing the Council's rules to ensure that the process for applying for and amending a site certificate is as straightforward and efficient as it can be, while serving the direction given to the Council by the legislature to protect the interests and wellbeing of the people of Oregon.

Prior phases of this rulemaking overview effort were intended primarily to improve the structure and clarity of the application process. This final phase is intended to be more substantive in nature, with the aim of amending the rule language for each of the Council's standards to fill in any potential gaps in their scope while also removing any excesses.

This proposed rulemaking would continue the Phase 3 review by evaluating the Council's Structural Standard, Soil Protection Standard, and Waste Minimization Standard. These standards address related issues concerning the physical characteristics of a proposed site, the potential impacts of facility construction and operation on soils, and the minimization, handling, and disposal of solid waste and wastewater. Because these standards involve

overlapping information related to site conditions, construction impacts, hazardous and non-hazardous materials, erosion, spills, waste generation, and mitigation measures, staff recommends that they be reviewed together.

The goal of this rulemaking would not be to reduce the substantive protections provided by these standards. Rather, the goal would be to ensure that the standards and their associated information requirements are clear, appropriately tailored to the types of facilities reviewed by Council, and necessary for Council to determine whether a proposed facility can be designed, constructed, operated, and retired consistent with applicable Council standards and site certificate conditions.

SCOPE AND OBJECTIVES

Staff has identified several areas where review of the Soil Protection, Structural, and Waste Minimization Standards may improve the clarity, efficiency, and usefulness of Council's rules. First, the rulemaking would provide an opportunity to make each standard more decision-ready by clarifying what an applicant must demonstrate, what findings Council must make, and what issues may be appropriately addressed through site certificate conditions or through coordination with other permitting authorities.

Second, the rulemaking would allow staff, Council, and a RAC to evaluate potential duplication among the standards and associated information requirements. Issues related to construction impacts, stormwater, erosion control, hazardous materials, waste handling, retirement, and restoration can overlap across multiple standards. A rulemaking could reduce unnecessary repetition while preserving the information Council needs to make its required findings.

Third, the rulemaking could modernize the standards to better reflect the types of facilities now reviewed by Council, including solar energy facilities, wind energy facilities, battery energy storage systems, transmission lines, substations, and related infrastructure. This may include clarifying when site-specific geotechnical, seismic, soil, erosion, waste, spill prevention, or end-of-life management information is needed, and when more detailed plans may reasonably be required later through conditions.

Finally, the rulemaking would provide an opportunity to evaluate whether any requirements should be converted into mandatory conditions. For example, staff often reviews or recommends similar conditions related to soil protection, construction-phase erosion control, waste handling, spill reporting, recycling or disposal documentation, final engineering certification, and post-construction restoration.

RULEMAKING ADVISORY COMMITTEE

Given the substantive nature of the rule requirements being reviewed, staff is of the belief that a RAC is appropriate. Staff recommends a RAC of approximately 10-12 persons representing:

- Members of the public
- Power providers
- Renewable energy developers
- Resource groups

- Federally recognized tribes in Oregon
- Local governments
- Agency partners with expertise related to geology, soils, stormwater, hazardous materials, solid waste, and wastewater
- Council or Department representatives familiar with implementation of these standards in site certificate reviews and compliance

Staff anticipates that the RAC would assist staff in identifying practical issues with the existing standards and information requirements, evaluating whether current requirements are duplicative or unclear, and reviewing potential draft rule language before staff brings proposed rules to Council for consideration.

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 portion of all RAC meetings.