

Attachment 3

RAC Comments

JACKMAN Tom * ODOE

From: jim kreider <jkreider@campblackdog.org>
Sent: Friday, May 12, 2023 5:56 PM
To: JACKMAN Tom * ODOE
Subject: Phase 1 RAC comments
Attachments: Kreider RAC Phase 1- Div 10-11 comments.odt; Kreider RAC Phase 1- all other divisions in different order.odt

Tom,

Took a cut at this but didn't give myself enough time with other project deadlines so it isn't complete. We may need to talk so you'll understand what I did.

When I started I knew we were to work from chapter 15 on. However, the main document (phase 1- update draft) wasn't working well for me to navigate TOC to body and back to TOC. So copy pasted the TOC into another document in order to see the order of topics go to the main doc to read the text.

When I went back to the new TOC I created I started at the top ... Division One. And realized what I had done when got to section 15. So my first doc will have comments on 10 and 11. The second will cover 15 on.

In the second doc I cut and pasted the logical order that I think the divisions should be in. As I pasted them in I crossed them out in the first doc. That is why everything below chapter 11 in first doc should be crossed out and in the 2nd doc in my logical order.

I have not worked on the order of the items in the divisions since I was moving them around. I do see changes in some of them that I would suggest but I'm out of time and think I might have gone beyond the scope already?

Lets talk sometime next week. AS the time lift gets heavier I don't think I'll have the time so would like a better assessment of time commitment. Its bugs me that I might have to drop out due to time and financial constants because this is important work. I fear no public will be in the group because of the time/financial constants. Industry folks don't have a problem participating since they are paid. The public not unless one is on jury duty. ;-)

Thanks -- jim

In the body of the document there needs to be hot links to the OAR's cited. Documents a near impossible to read with all the references to external docs than reference another external doc. For one OAR I remember having to read 5 or 6 rules that all referenced another rule or each other. Its worse that a rats maze at times.

DIVISION 1 - GENERAL PROVISIONS

There needs to be some type of purpose/authority in first position in all sections. There is no introduction for understanding what these general provisions are for? Or develop preamble that describes or gives an overview of the flow of each section and how they fit together.

Constructing a work flow diagram for the different energy projects that could be sited showing rules that apply to which part of the work flow would be helpful.

345-011-0005 - Quorum and Rules of Order	1
345-001-0005 - Uniform and Model Rules	1
345-001-0010 - Definitions.....	2
345-001-0020 - Purpose.....	9
345-001-0030 - Applicability	10
345-001-0035 - Electric and Magnetic Field Committee.....	10
345-001-0050 - Public Records Availability and Fees for Copying.....	10
345-001-0060 - Council Representation at Contested Case Hearings	11
345-001-0080 - Reconsideration and Rehearing -- Orders in Other than Contested Cases	11
<i>Energy Generation Areas</i>	<i>12</i>
345-001-0200 - Creation of an Energy Generation Area.....	12
345-001-0210 - Effect of an Energy Generation Area.....	13
345-001-0220 - Energy Generation Areas.....	14
<i>Solar Photovoltaic Power Generation Facilities.....</i>	<i>14</i>
345-001-0250 - Solar Photovoltaic Power Generation Facilities	14

Commented [jk1]: Move to Notice of intent 020

Commented [jk2]: Put this under committees and subs in 011-45

Commented [jk3]: Move to contested cases

Commented [jk4]: What would be an example of this? Site certificate goes to supreme court. Do the nuke division have an appeal process or is this it? No context to this?

Commented [jk5]: 1) This is rulemaking according to the 1st sentence. It really should be a site certificate or CPCN. Could you give me an example of when and where this was done? Is this about Wheatridge and the combining of separate units (don't know capacities)

This also has definitions which should be in the definitions section. Ok to repeat but this is the first mention of many of the definitions

Commented [jk6]: Wouldn't this be handled by a site certificate or an amendment to an existing site certificate?

Could you share when and where thins happened?

Commented [jk7]: Same as above

Commented [jk8]: Move to above Agendas for Regular meetings

Commented [jk9]: Inset this inside here
345-001-0035 - Electric and Magnetic Field Committee

DIVISION 11 - COUNCIL MEETINGS

345-011-0000 - Authority and Purpose	1
345-011-0010 - Officers	1
345-011-0015 - Meetings	2
345-011-0020 - Agendas for Regular Meetings	2
345-011-0025 - Consideration of Matters Not on Agenda	3
345-011-0030 - Order of Business	3
345-011-0035 - Requests to Place Items on the Agenda	3
345-011-0045 - Committees and Subcommittees.....	4
345-011-0050 - Council Files.....	4
345-011-0055 - Council Communications	4
345-011-0060 - Waiver and Suspension	5
345-011-0070 - Council Requests for Information	5
345-011-0080 - Unacceptable Conduct.....	5

At this point the TOC doesn't take one to the text of the section but to a comment. The index of the full document has 2 entries for the sections moved (the cut and paste).

DIVISION 15 - PROCEDURES GOVERNING COUNCIL AND DEPARTMENT OF ENERGY PROCEEDINGS, INCLUDING SITE CERTIFICATE HEARINGS (345-15-xxxx - 345-15-xxxx), contested cases, expiated review, exemptions, and Confidentiality and Inadmissibility of Mediation Communications

345-015-0001 - Purpose and Authority	1
345-015-0003 - Remote and Electronic Public Meeting and Hearings.....	1
<i>Procedures for Council and Department of Energy Review of an Application for a Site Certificate.....</i>	<i>1</i>
345-015-0110 - Public Notice of a Notice of Intent	1
345-015-01XX - Appointment of Special Advisory Groups	3

345-015-0120	Agency Memorandum on a Notice of Intent	4
345-015-0130	Informational Meeting on a Notice of Intent	5
345-015-0140	Review by the Department of Energy	5
345-015-0160	Project Order	5
345-015-XXX	Public Notice of a Preliminary Application	6
345-015-0180	Agency Memorandum on Preliminary Application	7
345-015-0190	Determination of Completeness	8
345-015-XXX	Public Notice of Complete Application for Site Certificate	9
345-015-XXX	Informational Meeting on a Complete Application	10
345-015-0200	Distribution of a Complete Application and Notice Thereof	11
345-015-0210	Draft Proposed Order	12
345-015-0220	Public Hearing on the Draft Proposed Order and Notice Thereof	13
345-015-0230	Council Review and the Department of Energy's Proposed Order	14
345-015-0240	The Decision Making Record	15
<i>Procedures for the Conduct of Contested Cases</i>		15
345-015-0012	Filing and Service of Documents in a Contested Case	15
345-015-0014	Contested Case Notices	16
345-015-0016	Requests for Party or Limited Party Status in Contested Cases on Applications for a Site Certificate	16
345-015-0018	Authorized Representative	17
345-015-0022	Petition for Indigent Status	18
345-015-0023	Duties of Hearing Officer	18
345-015-0024	Suspension of Hearing and Exclusion of a Party	20
345-015-0038	Separate Hearings	20
345-015-0043	Evidence: Testimony Submitted in Writing	20
345-015-0046	Evidence: Official Notice	20
345-015-0051	Evidence: Resolutions of Cities, Counties and Tribes	21
345-015-0054	Motions	21
345-015-0057	Prohibitions on Interlocutory Appeals to Council	21
345-015-0059	Prohibitions on Stays	22
345-015-0062	Reopening Record Prior to Decision	22
345-015-0080	Participation by Government Agencies	22
345-015-0083	Prehearing Conference and Prehearing Order	22
345-015-0085	Hearing Officer's Proposed Contested Case Order	23
<i>Procedures for Expedited Review of Certain Energy Facilities</i>		24
345-015-0300	Request for Expedited Review of Small Capacity Facilities	24
345-015-0310	Request for Expedited Review of Special Criteria Facilities	25
345-015-0320	Public Hearing Procedures for Special Criteria Facilities	30
<i>Exemptions from Council Jurisdiction</i>		33
345-015-0350	Council Determination of Exemption	33
345-015-0360	Contents of Request for Exemption	34
345-015-0370	Consideration of Request for Exemption	36
345-015-0380	Loss of Exemption	37
<i>Confidentiality and Inadmissibility of Mediation Communications</i>		37
345-015-0500	Confidentiality and Inadmissibility of Mediation Communications	37

Insert Noticing Table Here?

DIVISION 20 – NOTICE OF INTENT

345-020-0006	Submission of a Notice of Intent	1
345-020-0011	Contents of a Notice of Intent	1
345-020-0016	Amendment of Notice of Intent	6
345-020-0060	Expiration of a Notice of Intent	7

DIVISION 21 – APPLICATION FOR SITE CERTIFICATE

345-021-0000	General Requirements	1
345-021-0010	Contents of an Application	2
345-021-0020	Specific Application Requirements for Siting of Surface Facilities Related to Underground Gas Storage Reservoirs	26
345-021-0021	Specific Application Requirements for Facilities that Emit Carbon Dioxide	27

Commented [jk10]: Move to above 15 as 15 has first mention of Notice unless Notice of Rulemaking doesn't get moved that it is the first.

345-021-0090—Amendment of an Application.....	32
345-021-0100—Contested Case Proceeding on the Application—Burden of Proof.....	33

DIVISION 22 – GENERAL STANDARDS FOR SITING FACILITIES

345-022-0000—General Standard of Review.....	1
345-022-XXXX—Agency Coordination.....	3
345-022-0010—Organizational Expertise.....	3
345-022-0020—Structural Standard.....	4
345-022-0022—Soil Protection.....	4
345-022-0030—Land Use.....	5
345-022-0040—Protected Areas.....	7
345-022-0050—Retirement and Financial Assurance.....	7
345-022-0060—Fish and Wildlife Habitat.....	8
345-022-0070—Threatened and Endangered Species.....	8
345-022-0080—Scenic Resources.....	9
345-022-0090—Historic, Cultural and Archaeological Resources.....	9
345-022-0100—Recreation.....	10
345-022-0110—Public Services.....	10
345-022-0115—Wildfire Prevention and Risk Mitigation.....	11
345-022-0120—Waste Minimization.....	12

DIVISION 23 – NEED STANDARD FOR NONGENERATING FACILITIES

345-023-0005—Need for a Facility.....	1
345-023-0020—Least Cost Plan Rule.....	1
345-023-0030—System Reliability Rule for Electric Transmission Lines.....	3
345-023-0040—Economically Reasonable Rule for Natural Gas Pipelines or Liquefied Natural Gas Storage Facilities.....	4

DIVISION 24 – SPECIFIC STANDARDS FOR SITING FACILITIES

<i>Specific Standards for Wind Facilities.....</i>	<i>5</i>
345-024-0010—Public Health and Safety Standards for Wind Energy Facilities.....	5
345-024-0015—Cumulative Effects Standard for Wind Energy Facilities.....	5
<i>Specific Standards for Surface Facilities Related to Underground Gas Storage Reservoirs.....</i>	<i>6</i>
345-024-0030—Public Health and Safety Standards for Surface Facilities Related to Underground Gas Storage Reservoirs.....	6
<i>Specific Standards for Transmission Lines.....</i>	<i>6</i>
345-024-0090—Siting Standards for Transmission Lines.....	6
<i>Standards for Energy Facilities That Emit Carbon Dioxide.....</i>	<i>7</i>
345-024-0500—Standards for Fossil-Fueled Power Plants and Energy Facilities that Emit Carbon Dioxide.....	7
345-024-0503—Definitions for OAR 345-024-0500 to 345-024-0720.....	7
345-024-0550—Standard for Base Load Gas Plants.....	8
345-024-0560—Means of Compliance for Base Load Gas Plants.....	10
345-024-0570—Modification of the Standard for Base Load Gas Plants.....	11
345-024-0580—Monetary Offset Rate.....	11
345-024-0590—Standard for Non-Base Load Power Plants.....	11
345-024-0600—Means of Compliance for Non-Base Load Power Plants.....	13
345-024-0610—Modification of the Standard for Non-Base Load Power Plants.....	15
345-024-0620—Standard for Nongenerating Energy Facilities.....	15
345-024-0630—Means of Compliance for Nongenerating Energy Facilities.....	17
345-024-0640—Modification of the Standard for Nongenerating Energy Facilities.....	18
345-024-0680—Offset Projects.....	18
345-024-0710—Monetary Path Payment Requirement.....	20
345-024-0720—Qualified Organization.....	22

DIVISION 25 – SITE CERTIFICATE CONDITIONS

345-025-0006—Mandatory Conditions in Site Certificates.....	1
345-025-0010—Site-Specific Conditions.....	3
345-025-0016—Monitoring and Mitigation Conditions.....	4

DIVISION 26 – CONSTRUCTION AND OPERATION RULES FOR FACILITIES

345-026-0005 Purpose	1
345-026-0010 Legislative Authority	1
345-026-0015 Scope and Construction	1
345-026-0048 Compliance Plans	2
345-026-0050 Inspections	2
345-026-0080 Reporting Requirements for Energy Facilities	3
345-026-0105 Correspondence With Other State or Federal Agencies	5
345-026-0170 Notification of Incidents	5
<i>Rules for the Trojan Independent Spent Fuel Storage Installation</i>	<i>6</i>
345-026-0300 Regulations Applicable to the Trojan Independent Spent Fuel Storage Installation	6
345-026-0340 Security Plans	6
345-026-0350 Emergency Planning	6
345-026-0370 ISFSI Decommissioning Plan	7
345-026-0390 Spent Nuclear Fuel Storage	8

DIVISION 27 – SITE CERTIFICATE CONDITIONS, AMENDMENT, TRANSFER AND TERMINATION AND DEPARTMENT OF ENERGY APPROVAL OF GAS STORAGE TESTING PIPELINES

345-027-0110 Termination of a Site Certificate	1
345-027-0210 General	2
345-027-0220 Request for Approval	3
345-027-0230 Review of a Request for Approval	5
345-027-0240 Conditions	6
345-027-0311 Applicability	7
345-027-0313 Certificate Expiration	7
345-027-0350 Changes Requiring an Amendment	7
345-027-0351 Review Processes for Requests for Amendment	8
345-027-0353 Changes Exempt from Requiring an Amendment	8
345-027-0355 Written Evaluations for Changes Not Requiring Amendment	9
345-027-0357 Amendment Determination Request	10
345-027-0359 Pre Amendment Conference	11
345-027-0360 Preliminary Request for Amendment	11
345-027-0363 Determination of Completeness for a Request for Amendment	13
345-027-0365 Draft Proposed Order for a Request for Amendment	14
345-027-0367 Public Comment and Hearing on the Draft Proposed Order for Requests for Amendment Under Type A Review	15
345-027-0368 Public Written Comment on the Draft Proposed Order for Requests for Amendment Under Type B Review	17
345-027-0371 Proposed Order, Requests for Contested Case and Council's Final Decision on Requests for Amendment Under Type A Review	18
345-027-0372 Proposed Order and Council's Final Decision on Requests for Amendment Under Type B Review	22
345-027-0375 Scope of Council's Review	23
345-027-0380 Type C Review Process for Pre-Operational Requests for Amendment	24
345-027-0385 Request for Amendment to Extend Construction Deadlines	26
345-027-0390 Request by Any Person for Amendment to Apply Later Adopted Laws	27
345-027-0400 Request for Amendment to Transfer Ownership, Possession or Control of the Facility or the Certificate Holder	28

DIVISION 29 – NOTICE OF VIOLATION, CIVIL PENALTIES, REVOCATION OR SUSPENSION

345-029-0000 Policy	1
<i>Enforcement of Rules and Laws Related to Energy Facilities</i>	<i>1</i>
345-029-0003 Applicability of OAR 345-029-0005 through 345-029-0100	1
345-029-0005 Definitions for OAR 345-029-0005 through 345-029-0100	1
345-029-0010 Report by a Responsible Party	2
345-029-0020 Notice of Violation	2
345-029-0030 Classification of Violations	4
345-029-0040 Response to Notice of Violation	4
345-029-0050 Enforcement Conference	5
345-029-0060 Civil Penalties	5
345-029-0070 Contested Case Proceeding	6
345-029-0080 Payment of Penalty	7

345-029-0090 Council Consideration of Mitigating Factors	7
345-029-0100 Revocation or Suspension of Site Certificate	7
<i>Enforcement of Laws and Rules Related to the Transport and Disposal of Radioactive Materials or Waste</i>	<i>8</i>
345-029-0503 Applicability of OAR 345-029-0505 through 345-029-0560	8
345-029-0505 Definitions for OAR 345-029-0503 through 345-029-0560	8
345-029-0510 Report by a Responsible Party	9
345-029-0520 Pre Enforcement Notice	9
345-029-0530 Classification of Violations Involving the Transport or Disposal of Radioactive Materials or Wastes	11
345-029-0550 Enforcement Conference	11
345-029-0555 Enforcement Actions	12
345-029-0560 Calculation of Civil Penalty Amount	13

DIVISION 30 – RESEARCH REACTORS

Reporting of Operating Information from Research and Other Reactors Which Produce Less Than 200,000 Thermal Kilowatts

345-030-0005 General	17
345-030-0010 Reports Required	17

DIVISION 50 – RADIOACTIVE WASTE MATERIALS

345-050-0006 Disposal Prohibited	1
345-050-0010 Purpose and Applicability	1
345-050-0020 Exempt Quantities	1
345-050-0025 Exempt Concentrations	1
345-050-0030 Specific Exemptions	2
345-050-0035 Pathway Exemption	3
345-050-0036 Gamma Pathway Exemption Interpretive Rule	3
345-050-0038 Water Pathway Exemption Interpretive Rule	5
345-050-0040 Standards for Waste Disposal Facilities	6
345-050-0050 Definitions	6
345-050-0055 Mandatory Site Certificate Conditions	6
345-050-0060 Site Suitability	7
345-050-0070 Alternate Site	7
345-050-0075 Alternate Technology	8
345-050-0090 Adjacent State Compatibility	8
345-050-0100 Release of Radioactivity	8
345-050-0110 Compatibility with Federal Programs	9
345-050-0120 Bonding and Financial Ability	9
345-050-0130 Ability to Construct and Operate	10

DIVISION 60 – TRANSPORTATION OF RADIOACTIVE MATERIAL

345-060-0001 Definitions	1
345-060-0003 Applicability and Scope	1
345-060-0004 Permits	2
345-060-0005 Notification for Inspection	4
345-060-0006 Fees	4
345-060-0007 Inspections	5
345-060-0015 Vehicles, Operator, Equipment	6
345-060-0025 Packaging, Placarding, Labeling and Documentation	6
345-060-0030 Reporting and Emergency Response	6
345-060-0040 Highway Routes	6
345-060-0045 Financial Assurances	6
345-060-0050 Weather and Road Conditions	7
345-060-0055 Enforcement	7

DIVISION 70 – CONFIDENTIAL TREATMENT OF SECURITY

<i>PROGRAM INFORMATION</i>	<i>1</i>
345-070-0005 Purpose	1
345-070-0010 Legislative Authority	1
345-070-0015 Definitions	1

345-070-0020 Confidential Treatment Required	2
345-070-0025 Releases of Non-Confidential Information	2
345-070-0030 Public Statements on the Security Program	2

DIVISION 76 – SPECIFIC STANDARDS FOR THE SITING OF NUCLEAR POWER FACILITIES IN OREGON

345-076-0010 Purpose	1
345-076-0012 Rules That Apply to Nuclear Power Facilities	1
345-076-0020 Definitions	1
345-076-0050 Federal Waste Depository	1

DIVISION 92 – STANDARDS FOR THE SITING OF URANIUM MILLS IN OREGON

345-092-0010 Purpose	1
345-092-0012 Applicability and Statutory Authority	1
345-092-0014 Mandatory Site Certificate Conditions	1
345-092-0025 Definitions	1
345-092-0031 Standards Relating to Public Health and Safety of Uranium Mill Operation, Decommissioning and Waste Disposal	2
345-092-0040 Standards Relating to Environmental Impacts of Uranium Mill Operation	4
345-092-0050 Standards Relating to Beneficial Use of Wastes	4
345-092-0110 Applications and Site Certificate Conditions	5

DIVISION 95 – CONSTRUCTION, OPERATION, AND DECOMMISSIONING RULES FOR URANIUM MILLS

345-095-0005 Purpose	1
345-095-0015 Scope and Construction	1
345-095-0020 Definitions	1
345-095-0040 Rules that Apply to Construction	1
345-095-0045 Construction Reports	2
345-095-0060 Standards that Apply to Operation	2
345-095-0070 Effluent Release Limits	3
345-095-0080 Effluent Monitoring	3
345-095-0090 Public Health Impacts	4
345-095-0100 Environmental Monitoring	4
345-095-0115 Violations	6
345-095-0117 Mill Decommissioning	7
345-095-0118 Mine Reclamation	7
345-095-0120 Tailings Disposal	7
345-095-0150 Financial Assurance	8
345-095-0160 Financial Report	8

DIVISION 20 - NOTICE OF INTENT

345-020-0006 - Submission of a Notice of Intent 1
345-020-0011 - Contents of a Notice of Intent..... 1
345-020-0016 - Amendment of Notice of Intent..... 6
345-020-0060 - Expiration of a Notice of Intent..... 7

DIVISION 15 - PROCEDURES GOVERNING and Application process for COUNCIL AND DEPARTMENT OF ENERGY PROCEEDINGS, INCLUDING SITE CERTIFICATE HEARINGS contested cases, expiated review, exemptions, and Confidentiality and Inadmissibility of Mediation Communications

345-015-0001 - Purpose and Authority 1
345-015-0003 - Remote and Electronic Public Meeting and Hearings 1

Procedures for Council and Department of Energy Review of an Application for a Site Certificate 1

345-015-0110 - Public Notice of a Notice of Intent 1
345-015-01XX – Appointment of Special Advisory Groups 3
345-015-0120 – Agency Memorandum on a Notice of Intent..... 4
345-015-0130 - Informational Meeting on a Notice of Intent..... 5
345-015-0140 - Review by the Department of Energy 5
345-015-0160 - Project Order 5
345-015-XXX - Public Notice of a Preliminary Application 6
345-015-0180 - Agency Memorandum on Preliminary Application 7
345-015-0190 - Determination of Completeness 8
345-015-XXX - Public Notice of Complete Application for Site Certificate..... 9
345-015-XXX - Informational Meeting on a Complete Application 10
345-015-0200 - Distribution of a Complete Application and Notice Thereof..... 11
345-015-0210 - Draft Proposed Order 12
345-015-0220 - Public Hearing on the Draft Proposed Order and Notice Thereof..... 13
345-015-0230 - Council Review and the Department of Energy’s Proposed Order 14
345-015-0240 - The Decision-Making Record 15

DIVISION 21 - APPLICATION FOR SITE CERTIFICATE (does this section cover them all? coal, gas, nuke, wind, solar, geothermal, pumped hydro, dams, carbon capture units, transmission, and)

345-021-0000 - General Requirements 1
345-021-0010 - Contents of an Application 2
345-021-0020 - Specific Application Requirements for Siting of Surface Facilities Related to Underground Gas Storage Reservoirs..... 26
345-021-0021 – Specific Application Requirements for Facilities that Emit Carbon Dioxide 27
345-021-0090 - Amendment of an Application..... 32
345-021-0100 - Contested Case Proceeding on the Application -- Burden of Proof..... 33

DIVISION 22 - GENERAL STANDARDS FOR SITING FACILITIES

345-022-0000 - General Standard of Review 1
345-022-XXXX – Agency Coordination 3
345-022-0010 - Organizational Expertise..... 3
345-022-0020 - Structural Standard 4
345-022-0022 - Soil Protection 4
345-022-0030 - Land Use..... 5
345-022-0040 - Protected Areas 7
345-022-0050 - Retirement and Financial Assurance..... 7
345-022-0060 - Fish and Wildlife Habitat 8
345-022-0070 - Threatened and Endangered Species..... 8
345-022-0080 - Scenic Resources 9
345-022-0090 - Historic, Cultural and Archaeological Resources..... 9
345-022-0100 - Recreation..... 10
345-022-0110 - Public Services..... 10
345-022-0115 - Wildfire Prevention and Risk Mitigation..... 11
345-022-0120 - Waste Minimization 12

DIVISION 24 - SPECIFIC STANDARDS FOR SITING FACILITIES (adjust order of items to most applied for to least applied for)

<i>Specific Standards for Wind Facilities</i>	5	
345-024-0010 - Public Health and Safety Standards for Wind Energy Facilities	5	
345-024-0015 - Cumulative Effects Standard for Wind Energy Facilities	5	
<i>Specific Standards for Surface Facilities Related to Underground Gas Storage Reservoirs</i>	6	
345-024-0030 - Public Health and Safety Standards for Surface Facilities Related to Underground Gas Storage Reservoirs	6	6
<i>Specific Standards for Transmission Lines</i>	6	
345-024-0090 - Siting Standards for Transmission Lines	6	
<i>Standards for Energy Facilities That Emit Carbon Dioxide</i>	7	
345-024-0500 - Standards for Fossil-Fueled Power Plants and Energy Facilities that Emit Carbon Dioxide	7	
345-024-0503 – Definitions for OAR 345-024-0500 to 345-024-0720	7	
345-024-0550 - Standard for Base Load Gas Plants	8	
345-024-0560 - Means of Compliance for Base Load Gas Plants	10	
345-024-0570 - Modification of the Standard for Base Load Gas Plants	11	
345-024-0580 - Monetary Offset Rate	11	
345-024-0590 - Standard for Non-Base Load Power Plants	11	
345-024-0600 - Means of Compliance for Non-Base Load Power Plants	13	
345-024-0610 - Modification of the Standard for Non-Base Load Power Plants	15	
345-024-0620 - Standard for Nongenerating Energy Facilities.....	15	
345-024-0630 - Means of Compliance for Nongenerating Energy Facilities.....	17	
345-024-0640 - Modification of the Standard for Nongenerating Energy Facilities.....	18	
345-024-0680 - Offset Projects	18	
345-024-0710 - Monetary Path Payment Requirement.....	20	
345-024-0720 - Qualified Organization	22	

DIVISION 27 – 1) SITE CERTIFICATE CONDITIONS, 2) AMENDMENT, 3) TRANSFER AND TERMINATION 4) DEPARTMENT OF ENERGY APPROVAL OF GAS STORAGE TESTING PIPELINES 5)Nuclear Facilities, 6) research reactors, 7) Uranium Mills (break into smaller sections by subject in the order above. Better yet put them in order of the frequency of the requests you get. Why lead with termination when it is 3 in order.

345-027-0110 - Termination of a Site Certificate.....	1
345-027-0210 - General	2
345-027-0220 - Request for Approval.....	3
345-027-0230 - Review of a Request for Approval	5
345-027-0240 - Conditions	6
345-027-0311 - Applicability	7
345-027-0313 - Certificate Expiration	7
345-027-0350 - Changes Requiring an Amendment.....	7
345-027-0351 - Review Processes for Requests for Amendment	8
345-027-0353 - Changes Exempt from Requiring an Amendment	8
345-027-0355 - Written Evaluations for Changes Not Requiring Amendment.....	9
345-027-0357 - Amendment Determination Request.....	10
345-027-0359 - Pre-Amendment Conference	11
345-027-0360 - Preliminary Request for Amendment	11
345-027-0363 - Determination of Completeness for a Request for Amendment	13
345-027-0365 - Draft Proposed Order for a Request for Amendment	14
345-027-0367 - Public Comment and Hearing on the Draft Proposed Order for Requests for Amendment Under Type A Review	15
345-027-0368 - Public Written Comment on the Draft Proposed Order for Requests for Amendment Under Type B Review	17
345-027-0371 - Proposed Order, Requests for Contested Case and Council's Final Decision on Requests for Amendment Under Type A Review	18
345-027-0372 - Proposed Order and Council's Final Decision on Requests for Amendment Under Type B Review	22
345-027-0375 - Scope of Council's Review	23
345-027-0380 - Type C Review Process for Pre-Operational Requests for Amendment.....	24
345-027-0385 - Request for Amendment to Extend Construction Deadlines	26
345-027-0390 - Request by Any Person for Amendment to Apply Later-Adopted Laws.....	27
345-027-0400 - Request for Amendment to Transfer Ownership, Possession or Control of the Facility or the Certificate Holder	28

DIVISION 25 - SITE CERTIFICATE CONDITIONS merge into the above?

345-025-0006 - Mandatory Conditions in Site Certificates 1
345-025-0010 - Site-Specific Conditions 3
345-025-0016 - Monitoring and Mitigation Conditions 4

DIVISION 76 - SPECIFIC STANDARDS FOR THE SITING OF NUCLEAR POWER FACILITIES IN OREGON

345-076-0010 - Purpose 1
345-076-0012 - Rules That Apply to Nuclear Power Facilities 1
345-076-0020 - Definitions 1
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JACKMAN Tom * ODOE

From: Jack Watson <jack@oseia.org>
Sent: Friday, May 12, 2023 4:51 PM
To: JACKMAN Tom * ODOE
Subject: Feedback on Rule Alignment RAC

Hi Tom,

Below are some of OSSIA's thoughts on Phase 1 of the Rule Alignment Rulemaking, as well as some additional comments on directions for Phase 2 and Phase 3.

In general we are very supportive of the proposed changes that provide greater clarity to the applicants and to the public. These changes are not adding duties or removing duties, but rather consolidating them into one division of the rules. The one modification that we may see as negative or out of scope is the one identified in the staff report. The draft of OAR 345-015-0180(2) removes the terms "in coordination with the applicant", while the distribution date and distribution list have been done without coordination with the applicant in the past it does feel beyond the scope of this rulemaking.

In terms of advice on the direction for the future phases of this rulemaking we identified a few areas of that should be examined. Some areas of the EFSC application for a site certificate, while necessary for siting a fossil generator or nuclear generator, are not applicable to solar generation. For example, the requirement for a seismic study to be filed in a solar facility application is duplicative and the results for the studies all reveal the same information while not indicating harm to the public.

Additionally, the noise study could be replaced with a prescriptive level of ambient noise for solar. Each inverter available on the market has specification that detail the noise level associated with the inverter and could be used in place of a required noise study. This prescriptively set level could change based on the surroundings of the facility, for example the noise level could require a study if it falls within x-feet of a residence or commercial property. We understand that ODOE has been in contact with DEQ on the noise rules, but a solution is needed to avoid the expensive study and restudy for amendments.

There could be additional timelines or more definitive timelines that could improve the process, applicants need to retain counsel for the duration of the application process and delays waiting for the next step drive up the costs for applicants. Additionally, there is room for clarification of some of the waste minimization standards, as it relates to solar facilities.

Lastly, an examination of the decommissioning and bonding requirements seems appropriate. The level of decommissioning required for fossil and nuclear generation are very different from the retirement of a solar facility.

Best,
Jack Watson
Director of Policy and Regulatory Affairs Oregon Solar + Storage Industries Association Oregon Solar Energy Education Fund
(775) 813-9519

From: [Diane Brandt](#)
Sent: Monday, May 15, 2023 4:50 PM
To: [JACKMAN Tom * ODOE](#)
Cc: [Emily Griffith](#)
Subject: Comments on Process Review Phase 1
Attachments: RNW EFSC Process Review Phase 1 Comments May 15 2023.pdf

Tom,

Please find Renewable NW's comments on the first phase of the Process Review changes attached. Any follow up questions or clarifications always welcome!

Many thanks,
Diane



May 15, 2023

TO: EFSC Rulemaking Staff

FROM: Diane Brandt, Oregon State Director, Renewable Northwest
Emily Griffith, Strategic Engagement Manager, Renewable Northwest

SENT ELECTRONICALLY

RE: Comments on EFSC Process Review Phase 1, Rulemaking Advisory Committee

Renewable Northwest (“RNW”) is a regional, non-profit renewable energy advocacy organization based in Oregon, dedicated to the responsible development of renewable energy resources throughout the Pacific Northwest. Our members are a combination of renewable energy businesses and environmental and consumer groups.

RNW is participating on the rulemaking advisory committee (RAC) for Phase 1 of the application review process, which held a meeting on April 28, 2023. In reviewing the materials from staff and what was reviewed at the RAC meeting, RNW offers the below comments on the changes proposed in phase 1. In general, we support the effort to streamline and clarify responsibilities and requirements in the various steps of the application process at EFSC. The below comments are focused on clarifying changes and suggestions on how to increase clarity. We look forward to continued engagement on the process review rulemaking.

Division 15 Changes: Centralization and Continuity of Department Responsibilities

Given the number of changes in Division 15, maintaining process integrity through making responsibilities and timelines clear is essential. To further the clarity of Division 15, we support the consideration of “inserting a summary of the various notice requirements for different stages of the siting process” at the end of the division and recommend this reference table include any relevant timelines. We suggest that a similar summary table would be beneficial for the other divisions, as well.

On Notices

RNW would like to ensure its understanding of Staff's addition of "sending notice by mail or email to land management agency" which is listed as a change in the overview of draft changes table. There it says this was added to various notice of intent (NOI) sections throughout OAR 345. We would like to confirm this as we were only able to find this change in OAR 345-015-0110 on "Public Notice of a Notice of Intent." Are there other sections in OAR 345 that address the NOI? If so, we would like to confirm that this notification process is clearly stated as to which party is responsible to provide notice.

We appreciate the addition of OAR 345-015-0230 (3)(b)(E) which adds protected area managers to the Department's distribution of notices. Thank you for adding this as it was an area of concern for RNW during the previous Protected Areas, Scenic Resources, and Recreation Standards rulemaking which concluded in 2022. We support this addition in Division 15 as it helps clarify whose responsibility it is to identify and notify the protected area managers, which RNW sees as a Department function.

New Meetings and Advisory Groups

RNW recommends increasing clarity on the added "Informational Meeting on a Complete Application." Currently, it is unclear if this is a meeting the applicant should attend as instructed in OAR 345-020-0011(4) which refers to any meetings as outlined in OAR 345-015-0130. Additionally, we recommend providing more information on the intent of rulemaking for Special Advisory Groups. A note on the overview of draft changes reads that the rules on the formation of a Special Advisory Group are to be determined. We would like to know whether this will be included as part of phase 2 or 3 of this rulemaking series.

We note Staff's flag that OAR 345-015-0180 ("Agency Memorandum on the Preliminary Application") still needs more work, but it was not clear if this would be within this rulemaking or in the next phase. We do note some minor formatting items at this point, but significant changes would likely fall into future phases. We look forward to more discussion on this section.

Divisions 20-22 Moves: Add Internal References for Moved Sections

RNW appreciates the streamlining of moving Department responsibilities into Division 15. We would like to suggest adding internal references where Department responsibilities were removed and where they can now be found. We believe this will clarify that there is a process in

place for a given rule, communication, or noticing standard and where to find it. It will then not appear as a “missing piece” in the division rules. For example, while the content of OAR 345-020-0016(2) on issuing public notice on amendments was moved to 345-015-0110(4), we suggest keeping that subsection in Division 20 and stating that the public notification of amendments falls under the Department’s responsibilities and can be found in OAR 345-015-0110(4). We suggest a similar approach for all the changes in Division 21 and for OAR 345-020-0040 on NOI distribution.

Looking Ahead to Future RAC Phases

Again, RNW appreciates participation in the RAC on Process Review Phase 1 and looks forward to the next phases. This approach will support finding a good balance between process, cost to applicants, and opportunity for public comment. Some general points we would like to raise for future consideration are:

- Possibility to increase site certificate validity from three to five years;
- Study and elimination of overlapping processes with any federal permitting procedures for ensuring efficient processes;
- Expanding the use of a consent agenda for administrative items; and
- Consideration of other process efficiencies that might result from greater clarity on what functions are administrative in nature and would only warrant a review by the Director versus a full Council review.

RNW is appreciative of the opportunity to participate in the RAC and is open to any follow up questions or requests for further information or discussion. Thank you for the consideration of these comments and we look forward to future work on the process review and other rulemakings.