



# Energy Facility Siting in Oregon

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# Energy Facilities Siting in Oregon

- Oregon Energy Facility Siting Council (EFSC)
- Seven citizens appointed by the Governor and confirmed by the Senate
- Council's role:
  - makes policy
  - makes final siting decisions
  - adopts administrative rules
- ODOE serves as technical staff



# Siting Basics in Oregon

- All state and local government requirements are combined in a single decision, except federal delegated requirements (such as air quality remaining with DEQ)
- Council reviews application based on standards.
- Council issues Site Certificate, which is a binding contract between the applicant and all political subdivisions
- State agencies issue permits with the Council's conditions (Water, Endangered Species, Wetlands, Land Use etc.)
- Standards are “pass/fail”



# The Council does not review all energy facilities

## Definitions

- (11)(a) “Energy facility” means any of the following:...
- (J) An electric power generating plant with an **average** electric generating capacity of 35 megawatts or more if the power is produced from **geothermal, solar or wind** energy at a single energy facility or within a single energy generation area.

For geothermal, this means a plant with a nameplate capacity of 38.85 MW or more falls under the EFSC’s jurisdiction. Smaller power plants fall under local jurisdiction like the county.

# The Siting Statutes' provisions

The energy facility siting statutes include the following provisions:

- The use of specific standards for determining compliance
- A "one-stop" process in which the Council determines compliance with specific standards of the Council and other state and local permitting agencies
- Public comment periods at the front end of the process, followed by a more formal contested case proceeding
- Appeal directly to the Supreme Court for judicial review

If a proposed energy facility meets the standards, the Council must issue the site certificate.

## The Council's standards protect

**natural resources, ensure public health and safety and protect against adverse environmental impacts.**

The standards ask three fundamental questions:

- ◆ Does the applicant have the appropriate abilities to build this energy facility?
- ◆ Is the site suitable?
- ◆ Would the facility have adverse impacts on the environment and the community?

**See OAR Chapter 345, Divisions 22, 23, and 24**

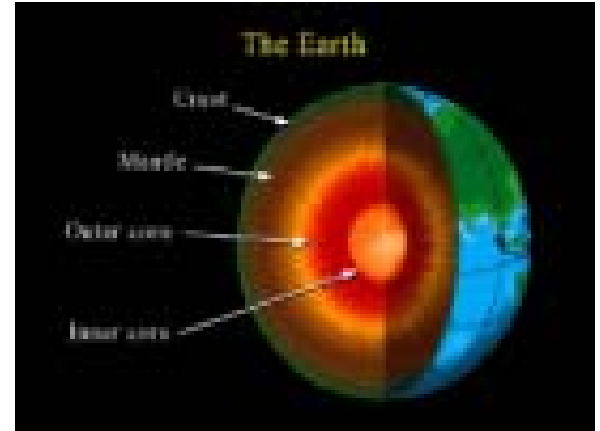
## The General Standard of Review

The General Standard of Review requires a proposed energy facility to comply with all applicable Oregon standards, statutes and rules, including those of agencies other than the Siting Council. The Council consults with other agencies in determining compliance with this standard.



# Example of the Council's Standards

- Fish and Wildlife habitat
- Soil protection
- Land use
- Protected areas
- Structural
- Threatened and endangered species
- Organizational expertise
- Retirement of the facility and financial assurance
- Public Services (effect on police, fire, other basic services)
- Statutory authority to impose any conditions needed for public safety





## Responsibilities of agencies

- Council and ODOE staff: on-going regulatory authority based on the site certificate
- Other agencies: regulatory responsibility for their permits
- Standards set by rule
- Air Quality authority remains with DEQ



# Siting Decision is NOT just a YES or NO decision

- If the project meets the standards - approve
- If it doesn't meet the standards - deny
- Decision is based on “preponderance of evidence”
- **BUT** -- EFSC can impose conditions needed to assure compliance



## Two-Phase Process for all but the smaller projects

- **Notice of Intent**
  - Informal, gives a “heads up”
  - Preliminary and subject to change
  - Early opportunity for public comment
  - Does not result in any regulatory decisions
- **Application for Site Certificate**
  - Detailed evidence of compliance with standards
  - Results in detailed review and hearings



# Public Comment Opportunities

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- Public can comment on the Notice of Intent
- The applicant addresses public comments in its Application for Site Certificate
- The public has several chances to comment on the Application for Site Certificate later in the process



## Expedited Review Process for small facilities

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- For power plants with an **average** electric generating capacity of 35 MW or more but less than 100 MW, the applicant can request an expedited review.

For geothermal, this means power plants of 38.85 MW or more, but less than 111 MW **nameplate** capacity

- The applicant does **not** submit a notice of intent, but only submits an application for a site certificate.
- Skipping the notice of intent phase for a small capacity facility is the only difference with a standard review



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# The Application Process for the Site Certificate

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- **Application for Site Certificate**
  - ODOE will issue notice and ask for public comment
- **Draft Proposed Order (ODOE recommendations)**
  - ODOE will issue notice and again invite public comment
  - There will be a hearing on the Draft Proposed Order
  - Concerned persons must comment on the Draft Proposed Order in writing or at the hearing to preserve appeal rights
- **Contested Case under an independent Hearing Officer**



## Recent EFSC Renewable Projects in Oregon

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### **Approved projects:**

- Klondike III wind - 272 MW nameplate - Sherman Co
- Biglow Canyon wind - 450 MW - Sherman Co

### **Currently under review:**

- Leaning Juniper wind - 279 MW - Gilliam Co
- Shepherds Flat wind - 750 MW - Gilliam & Morrow Co
- Seven Mile Hill wind - 60 MW - Sherman Co
- Columbia Ethanol - 42 million ga/yr - Boardman, OR



## More Information

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All this information can be found at:

<http://egov.oregon.gov/ENERGY/SITING/process.shtml>

For a flow chart of the Site Certificate Process, see:

<http://egov.oregon.gov/ENERGY/SITING/docs/standard.pdf>

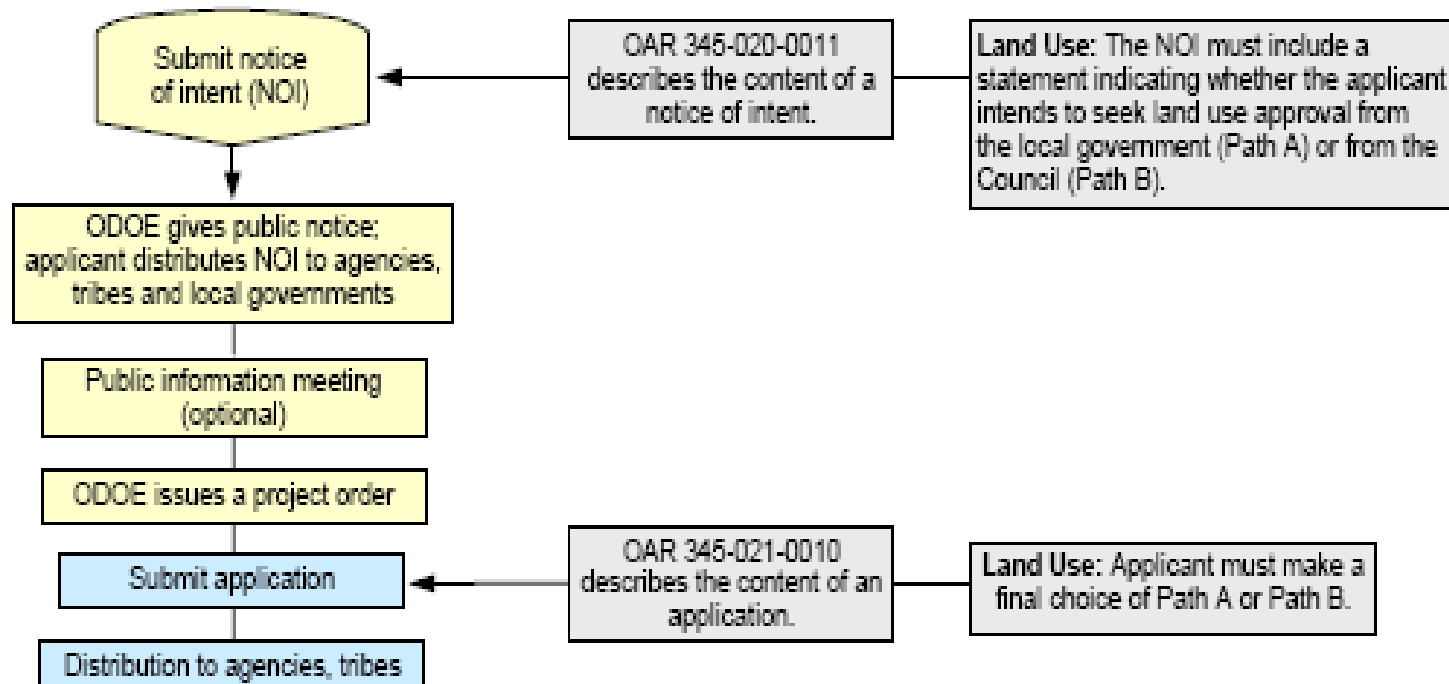




# This is the top of the flow chart: see last page of handout

## OREGON ENERGY FACILITY SITING COUNCIL

### Standard Site Certificate Process



## More Information

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◆ Oregon Department of Energy

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1-800-221-8035 (in Oregon), or 503-378-4040

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