

## DIVISION 20 NOTICE OF INTENT

### **345-020-0006**

#### **Submission of a Notice of Intent**

(1) The purpose of the notice of intent (NOI) is to notify the Department of Energy and the Council of a proposed facility and to provide information about the site and the characteristics of the facility sufficient for the preparation of the project order described in OAR 345-015-0160. Any person who intends to apply for a site certificate for a facility shall submit an NOI to the Department with the fee required by the fee schedule established under ORS 469.441, payable to the Oregon Department of Energy.

(2) Notwithstanding section (1), an applicant granted expedited review under OAR 345-015-0300 or OAR 345-015-0310 need not submit an NOI.

(3) Notwithstanding the definition of “energy facility,” a person may elect to apply for a site certificate for an electric power generating plant with an average electric generating capacity of less than 35 megawatts from wind energy. If such person chooses not to request expedited review under OAR 345-015-0300 or if expedited review is not granted, the person shall submit an NOI to the Department with the fee required by the fee schedule established under ORS 469.441, payable to the Oregon Department of Energy. An election to obtain a site certificate is final upon submission of the application.

Stat. Authority: ORS 469.370, ORS 469.470

Stat. Implemented: ORS 469.330

### **345-020-0011**

#### **Contents of a Notice of Intent**

(1) The applicant shall, to the extent reasonably practicable, include in the notice of intent (NOI) the information described in the following subsections. If the applicant proposes alternative sites, the applicant shall describe each alternative separately. The applicant shall designate the information with the appropriate exhibit label identified in the following subsections.

(a) **Exhibit A.** Information about the applicant and participating persons, including:

(A) The name and address of the applicant including all co-owners of the proposed facility, the name, mailing address and telephone number of the contact person for the NOI, and if there is a contact person other than the applicant, the name, title, mailing address and telephone number of that person;

(B) The contact name, address and telephone number of all participating persons, other than individuals, including but not limited to any parent corporation of the applicant, persons upon whom the applicant will rely for third-party permits or approvals related to the facility, and persons upon whom the applicant will rely in meeting any facility standard adopted by the Council.

- (C) If the applicant is a corporation, it shall give:
- (i) The full name, official designation, mailing address and telephone number of the officer responsible for submitting the NOI;
  - (ii) The date and place of its incorporation;
  - (iii) A copy of its articles of incorporation and its authorization for submitting the NOI; and
  - (iv) In the case of a corporation not incorporated in Oregon, the name and address of the resident attorney-in-fact in this state and proof of registration to do business in Oregon.
- (D) If the applicant is a wholly owned subsidiary of a company, corporation or other business entity, in addition to the information required by paragraph (C), it shall give the full name and business address of each of the applicant's full or partial owners;
- (E) If the person submitting the NOI is an association of citizens, a joint venture or a partnership, it shall give:
- (i) The full name, official designation, mailing address and telephone number of the person responsible for submitting the NOI;
  - (ii) The name, business address and telephone number of each person participating in the association, joint venture or partnership and the percentage interest held by each;
  - (iii) Proof of registration to do business in Oregon;
  - (iv) A copy of its articles of association, joint venture agreement or partnership agreement and a list of its members and their cities of residence; and
  - (v) If there are no articles of association, joint venture agreement or partnership agreement, the applicant shall state that fact over the signature of each member;
- (F) If the applicant is a public or governmental entity, it shall give:
- (i) The full name, official designation, mailing address and telephone number of the person responsible for submitting the NOI; and
  - (ii) Written authorization from the entity's governing body to submit an NOI;
- (G) If the applicant is an individual, the individual shall give his or her mailing address and telephone number;
- (b) **Exhibit B.** Information about the proposed facility, including:
- (A) A description of the proposed energy facility, including as applicable:
    - (i) The nominal electric generating capacity and the average electrical generating capacity, as defined in ORS 469.300.
    - (ii) Major components, structures and systems, including a description of the size, type and configuration of equipment used to generate electricity and useful thermal energy.
    - (iii) Methods for waste management and waste disposal, including, to the extent known, the amount of wastewater the applicant anticipates, the

applicant's plans for disposal of wastewater and storm water, and the location of disposal;

(iii) For thermal power plants:

(I) A discussion of the source, quantity and availability of all fuels proposed to be used in the facility to generate electricity or useful thermal energy.

(II) Methods for disposal of waste heat.

(iv) For transmission lines, approximate transmission line voltage, load carrying capacity and type of current.

(v) For pipelines, approximate operating pressure and delivery capacity in thousand cubic feet per day.

(vi) For surface facilities related to underground gas storage, estimated daily injection and withdrawal rates, horsepower compression required to operate at design injection or withdrawal rates, operating pressure range and fuel type of compressors.

(vii) For facilities to store liquefied natural gas, the approximate volume, maximum pressure, liquefaction and gasification capacity in thousand cubic feet per hour.

(B) A description of major components, structures and systems of each related or supporting facility.

(C) The approximate dimensions of major facility structures and visible features.

(c) **Exhibit C.** A description of the location of the proposed energy facility site and the proposed site of each related or supporting facility and all areas that might be temporarily disturbed during construction of the facility, including the approximate land area of each.

(d) **Exhibit D.** If the proposed energy facility is a pipeline or a transmission line or has, as a related or supporting facility, a transmission line or pipeline that, by itself, is an energy facility under the definition in ORS 469.300, identification of at least two proposed corridors, as defined in OAR 345-001-0010, or identification of a single proposed corridor with an explanation of why alternate corridors are unlikely to better meet the applicant's needs and satisfy the Council's standards. The applicant shall include an explanation of the basis for selecting the proposed corridor(s) and, for each proposed corridor, the information described in subsections (e), (g), (i), (j), (k), (n) and (p) that is available from existing maps, aerial photographs, and a search of readily available literature.

(e) **Exhibit E.** Identification of all federal, state and local government permits needed before construction and operation the proposed facility, legal citation of the statute, rule or ordinance governing each permit, and the name, address and telephone number of the agency or office responsible for each permit.

(f) **Exhibit F.** A list of the names and mailing addresses of all owners of record, as shown on the most recent property tax assessment roll, of property located within or adjacent to the site boundary as defined in OAR 345-001-0010. In addition to incorporating the list in the NOI, the applicant shall submit the list to the Department of Energy in electronic format acceptable to the Department for the production of mailing labels. Property adjacent to the site boundary means property that is:

(A) Within 100 feet of the site boundary where the site, corridor or micro-siting corridor is within an urban growth boundary;

(B) Within 250 feet of the site boundary where the site, corridor or micro-siting corridor is outside an urban growth boundary and not within a farm or forest zone; and

(C) Within 500 feet of the site boundary where the site, corridor or micro-siting corridor is within a farm or forest zone;

(g) **Exhibit G.** A map or maps showing:

(A) The proposed locations of the energy facility site, all related or supporting facility sites and all areas that might be temporarily disturbed during construction of the facility in relation to major roads, water bodies, cities and towns, important landmarks and topographic features;

(B) The proposed locations of the corridors the applicant has identified under subsection (d) in relation to major roads, water bodies, cities and towns, important landmarks and topographic features;

(C) The study area(s) for the proposed facility as defined in OAR 345-001-0010;

(D) The topography of the study area(s) including streams, rivers, lakes, major roads and contour lines;

(E) All protected areas in the study area as defined in OAR 345-001-0010 for impacts to protected areas; and

(F) The location of any potential waters of the state or waters of the United States that are on or adjacent to the site.

(h) **Exhibit H.** If the proposed facility is a non-generating energy facility for which the applicant must demonstrate need under OAR 345-023-0005, identification of the rule in Division 23 of this chapter under which the applicant intends to demonstrate need and a summary statement of the need and justification for the proposed facility.

(i) **Exhibit I.** A statement indicating whether the applicant intends to satisfy the Council's land use standard, OAR 345-022-0030, by obtaining local land use approval under ORS 469.504(1)(a) or by seeking a Council determination under ORS 469.504(1)(b).

(j) **Exhibit J.** Identification of significant potential environmental impacts of construction and operation of the proposed facility on the study areas, including those impacts affecting air quality, surface and ground water quality and availability, wildlife and wildlife habitat, threatened and endangered plant

and animal species, historic, cultural and archaeological resources, scenic and aesthetic areas, recreation, and land use.

(k) **Exhibit K.** Information about significant potential adverse impacts of construction and operation of the proposed facility on the ability of communities in the study area to provide the services listed in OAR 345-022-0110.

(L) **Exhibit L.** Information about anticipated water use during construction and operation of the proposed facility, including:

(A) A description of each source of water and the applicant's estimate of the amount of water the facility will need from each source;

(B) If a new water right is required, the approximate location of the points of diversion and the estimated quantity of water to be taken at each point;

(C) For operation, the source of cooling water and the estimated consumptive use of cooling water, based on annual average conditions.

(m) **Exhibit M.** If the proposed facility would emit carbon dioxide, an estimate of the gross rate of carbon dioxide emissions, a table listing all the factors that form the basis for calculating the estimate, and a statement of the means by which the applicant intends to comply with the applicable carbon dioxide emissions standard under OAR 345-024-560, OAR 345-024-600, or OAR 345-024-630.

(n) **Exhibit N.** Identification, by legal citation, of all state statutes and administrative rules and local government ordinances containing standards or criteria that the proposed facility must meet for the Council to issue a site certificate, other than statutes, rules and ordinances identified in Exhibit E, and identification of the agencies administering those statutes, administrative rules and ordinances. The applicant shall analyze and describe any problems the applicant foresees in satisfying the requirements of any such statute, rule or ordinance.

(o) **Exhibit O.** A schedule stating when the applicant expects to submit an application for a site certificate.

(p) **Exhibit P.** Evidence of consultation with the State Commission on Indian Services to identify each appropriate tribe to consult with regarding the proposed facility's possible effects on Indian historic and cultural resources.

(2) Documents prepared in connection with an environmental assessment or environmental impact statement for the proposed facility under the National Environmental Policy Act of 1970, if any, may contain some of the information required by section (1) of this rule. The applicant may copy relevant sections of such documents into the appropriate exhibits of the NOI. The applicant may otherwise submit full copies of those documents and include, in the appropriate exhibits of the NOI, cross-references to the relevant sections of those documents. The applicant may use such documents only to avoid duplication. The applicant shall include additional information in the NOI as needed to meet the requirements of section (1) of this rule.

(3) The applicant shall include a table of contents in the NOI identifying the location of each exhibit required by this rule. The applicant shall submit an original and ten copies of the NOI to the Department and shall prepare and distribute additional copies of the NOI as required by OAR 345-020-0040. In addition to the printed copies, the applicant shall submit the text (and graphical information to the extent practical) of the NOI in a non-copy-protected electronic format acceptable to the Department.

(4) The applicant or the applicant's representative shall attend all public informational meetings on the NOI as described in OAR 345-015-0130 to discuss the proposed facility and to answer questions from the public. If the applicant has identified one or more proposed corridors in Exhibit D of the NOI as required by section (1)(d), the applicant may present adjustments to the proposed corridor(s) at any public informational meeting. An adjustment is any change that is outside the boundaries of the corridors proposed in the NOI and may include an entirely new corridor.

Stat. Authority: ORS 469.470

Stat. Implemented: ORS 469.330

### **345-020-0016**

#### **Amendment of a Notice of Intent**

(1) The applicant may amend the notice of intent (NOI). The applicant shall submit the original and ten copies of the amended NOI to the Department of Energy. In addition to the printed copies, the applicant shall submit the text (including appendices and graphical information to the extent practical) of the amended NOI in a non-copy-protected electronic format acceptable to the Department.

(2) The Department shall inform the public, in the manner described in OAR 345-015-0110, of any amendment that:

(a) Significantly changes the proposed site boundary or location of the proposed energy facility or related or supporting facility;

(b) Changes the proposed fuel type, significantly increases the generating capacity of the proposed energy facility, increases the voltage of a proposed transmission line, or significantly increases the capacity or operating pressure of a proposed pipeline;

(c) Increases water consumption or disposal by more than 5 percent;

(d) Changes the source of water; or

(e) Significantly changes the means of compliance with the carbon dioxide standard, if applicable.

(3) The applicant shall deliver copies of the amended NOI to the reviewing agencies as defined in OAR 345-001-0010.

(4) Submission of an amended NOI does not extend the expiration date of the NOI. The applicant, however, may petition the Council to extend the duration of the NOI as provided in OAR 345-020-0060.

Stat. Authority: ORS 469.470

Stat. Implemented: ORS 469.330

### **345-020-0040**

#### **Distribution of a Notice of Intent**

(1) As soon as is practical after the submission of the notice of intent (NOI), the applicant shall distribute, by hand delivery or mailing, copies of the NOI to the reviewing agencies as defined in OAR 345-001-0010.

(2) The applicant shall attach the memorandum from the Department described in OAR 345-015-0120 to the copies of the NOI distributed according to section (1).

(3) The applicant shall provide additional copies of the NOI to the Department upon request and copies or access to copies to any person requesting copies.

Stat. Authority: ORS 469.470

Stat. Implemented: ORS 469.330

### **345-020-0060**

#### **Expiration of a Notice of Intent**

(1) A notice of intent (NOI) expires two years after the applicant submits the NOI unless, not less than 45 days before the expiration date, the applicant submits a petition to the Council to extend the expiration date. If the Council finds that the petition shows good cause, the Council may extend the expiration date for a period of up to one year. The applicant's submission of a timely petition for an extension under this rule stays the expiration of the NOI until the Council's decision to grant or deny the extension.

(2) If the applicant does not submit an application for a site certificate for the facility described in an NOI before the expiration of the NOI or any extension period granted by the Council, the applicant must submit a new NOI to satisfy ORS 469.330.

Stat. Authority: ORS 469.470

Stat. Implemented: ORS 469.330