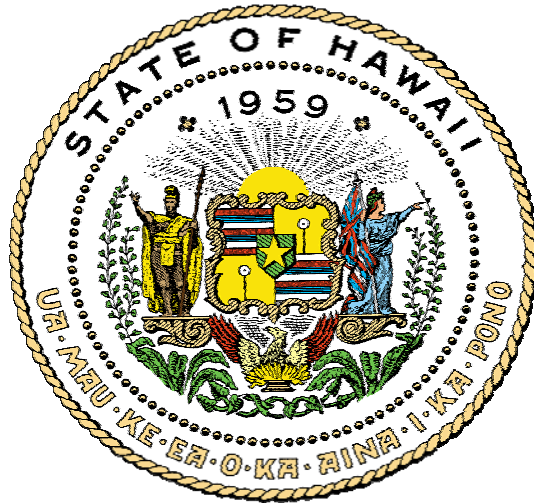


State of Hawaii



REPORT TO THE LEGISLATURE

Pursuant to

Senate Concurrent Resolution 164

Regular Session of 2007

Submitted to

The Twenty-Fourth State Legislature

Regular Session of 2008

By

the Department of Business, Economic Development and Tourism

November 30, 2007

**Report to the Legislature
Pursuant to
Senate Concurrent Resolution 164
Regular Session of 2007
For
A Study to Create A One-Stop Permit Shop for Renewable Energy
Projects**

Introduction

The 2007 State Legislature adopted Senate Concurrent Resolution (SCR) 164, Requesting that the Department of Business, Economic Development and Tourism (DBEDT) Conduct A Study To Create A One-Stop Permit Shop For Renewable Energy Projects. While SCR 164 recognized the State's strong history of policy support for renewable energy projects, it pointed to the State's complex and time-consuming permitting process as a barrier to project implementation.

Accordingly, the resolution asserts that "special assistance may be required from the State to streamline the permitting process" but that the process "should not entail the elimination or reduction in environmental protection or public participation in the process." Having set forth these broad parameters, SCR 164 requested that DBEDT conduct a "study on the feasibility of creating a one-stop permit shop to expedite permit processing for renewable energy projects and to recommend changes, if any, that are needed to establish this streamlined permit process."

Approach

The Strategic Industries Division of DBEDT (SID), which functions as the State Energy Office and coordinates the State's renewable energy and energy efficiency programs, was assigned to conduct the SCR 164 study. SID does not have any regulatory responsibility or authority for facilities approvals including related permits for health and safety, environmental review, or land use. As no resources were provided for the study, the study scope was limited to achievable outcomes in view of the knowledge and availability of existing staff. Thus, in light of the broad guidance provided by the Legislature, and the lack of direct regulatory experience by DBEDT staff, study tasks were designed to provide a general view of Hawaii's permitting requirements for a better understanding of ways streamlining can meet the needs of renewable energy developers, and to identify successful "one-stop shop" permitting systems and strategies used in other states that could be recommended for use in Hawaii.

Tasks were as follows:

Task 1 – Investigate and document relevant permits for the entire range of renewable energy facilities in Hawaii including biomass, wind, solar, geothermal, hydroelectric, and ocean resources.

Task 2 – Identify systems in other states that are considered successful models for consolidated and streamlined energy facility permitting.

Task 3 – Gather data on the selected systems through interviews, websites, and other information sources.

Task 4 – Comparatively evaluate the selected system models and determine strengths and weaknesses in view of the guidance provided by SCR 164. Prepare recommendations.

Findings

Task 1 – Investigate and document relevant permits for the entire range of renewable energy facilities in Hawaii including biomass, wind, solar, geothermal, hydroelectric, and ocean resources.

The work required in Task 1 was achieved by incorporating a separate on-going SID effort to compile a comprehensive information database on permit requirements for renewable energy projects as part of the Governor’s Lead by Example initiative. The State’s most current comprehensive information resource for permitting information is the 1995 “Guide to State Permits and Approvals for Land and Water Use and Development” prepared by the State Office of Planning. There have been prior compilations of permit requirements for specific resource types of renewable energy facilities, however, several are outdated, and none has been verified as complete. While the Guide provides helpful information concerning listed permits and their application, it is not designed for use by renewable energy developers such that developers can readily identify relevant permits. Thus, the SID compilation of a renewable energy database has required that staff research each state, county, and federal permit to determine its relevance to each of the renewable energy categories. This task has been both challenging and time intensive and, as of this report, remains on-going. The database of renewable energy permits compiled as of October 3, 2007 is attached as Appendix I.

In researching the permits, SID staff has identified the following concerns:

- Lack of regulatory experience with renewables. The permitting of unique applications can be an uphill challenge for both applicants and permitting agencies. Recent examples include an open-ocean aquaculture farm off the Kona coast, a bioenergy facility on Kauai, and a photovoltaic plant on Lanai. The lack of permitting experience with renewable energy projects can lead to uncertainties and delays, and potentially unnecessary application for permits “just in case” they are needed.
- Plethora of technologies. Although seemingly similar, renewable energy facilities, equipment, and operations can be significantly different and may have different impacts. For example, photovoltaic arrays and concentrating solar electric plants have very different infrastructure requirements although they both produce electricity from the sun.

- Novelty of technologies. The impacts of some technologies, for example, ocean energy devices, are unknown due to lack of commercial deployment.
- Broad or vague definitions. Does the term “refinery” relate only to petroleum, or does it include biodiesel transesterification plants? Does “biofuels” encompass both biodiesel and ethanol? Should it also include solid agricultural waste which can be burned or gasified, or anaerobic digester gas from animal waste? A wave energy project applicant may not know that wave energy devices are defined as a “discharge” for water quality permitting purposes.
- Lack of specificity. Land use laws have been amended to specifically allow certain uses (e.g., wind on agricultural land, and forestry in some conservation districts) but may be silent on others.
- Requirements may differ. A specific technology may trigger different permits depending on the scale and location. It may not be possible to know whether a project will trigger a Land Use District Boundary Amendment or need a Historic Site Review, for example, until a prospective site has been identified.
- Applicable agencies. It is not always clear which agency is responsible for permitting. For example, shoreline setbacks are generally approved by county planning departments. In Maui County, however, the island of Molokai has its own Planning Commission which approves shoreline area variances.

Task 2 – Identify systems in other states that are considered successful models for consolidated and streamlined energy facility permitting.

Three “one-stop permit shop” models were selected for analysis in this study due to the relative success of the models, SID’s resource constraints, and the recommendations of Hawaii renewable energy project developers. They include two regulatory models -- the Oregon and Washington energy facility siting councils -- as well as a permitting facilitation model established within Washington’s Office of Regulatory Assistance (ORA).

As a regulatory program, the energy facility siting council provides a comprehensive review process for which an important objective is environmental protection, whereas the facilitation model assists project applicants to obtain permits as efficiently and quickly as possible without compromising environmental protection. Notably, the energy facility siting councils have significant statutory regulatory responsibilities during the entire life of a permitted project.

To highlight the similarities and differences of siting councils in the western states, the Oregon Department of Energy conducted a “Comparison of Energy Facility Siting Requirements” that included consolidated energy facility siting programs in Oregon, Washington, Montana and California. All four employ a comprehensive review of a proposed facility and have the following common characteristics:

- The standards of other state and local agencies are combined in a consolidated review.
- In most cases, some type of preliminary notice is required before an application is filed.

- A "contested case" review of the application is required.
- Energy facilities are defined to include related facilities such as power lines.
- Need is addressed through planning in three of the four states.
- Public hearings are provided in addition to adjudicated proceedings.
- Ongoing regulation of an approved facility is based on certificate conditions.

Task 3 – Gather data on the selected systems through interviews, websites, and other information sources.

The “Comparison of Oregon and Washington Consolidated Energy Permitting Systems” matrix, Appendix II, highlights the key characteristics of each of the “one-stop permit shop” models selected for analysis. A description of the three models follows:

Oregon’s Energy Facility Siting Council (EFSC)

Oregon’s EFSC was established in 1975. Its seven members are appointed by the Governor and confirmed by the Oregon Senate. The Oregon Department of Energy, also established in 1975, provides staff support for the EFSC. The EFSC has regulatory and siting responsibility for large electric generating facilities, high voltage transmission lines, gas pipelines and radioactive waste disposal sites. State-level oversight of energy facilities helps ensure that Oregon has an adequate energy supply while protecting the environment and public safety.

Oregon’s review process does not directly cover federal permits such as air and water quality; however, they are recognized in the siting review and coordinated to the extent possible. As with the other states, a decision by EFSC binds other agencies of the state. The Oregon review process is "standard based," i.e., the siting decision is based on an assessment of evidence against specific standards, established by rule, reflecting Oregon’s decision in the early 1970s to utilize specific land use criteria rather than a State Environmental Policy Act (SEPA).

A proposed facility must undergo a thorough review process and must meet EFSC’s siting standards to receive a site certificate that authorizes the developer to construct and operate the facility. The EFSC must issue the site certificate if all standards are met. The standards ensure that the construction, operation and retirement of the facility will protect the public interest and conserve the natural resources of the state. After issuing a site certificate, the EFSC has ongoing regulatory authority over the construction and operation of the facility.

Oregon formalizes the identification of applicable rules, statutes and ordinances through the issuance of a project order, by EFSC Department of Energy staff, that includes all project requirements. Developers fully fund all costs associated with the site certificate process including staff.

Although Oregon does not have a SEPA, the EFSC has broad standard-making authority to protect natural resources, ensure public health and safety and protect against adverse environmental impacts. Its 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 EFSC. Under the standards, applicants must meet three fundamental criteria:

- 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?

The Standards are available for further review at <http://www.oregon.gov/ENERGY/SITING/standards.shtml>, and are as follows:

- General Standard of Review
- Organizational Expertise
- Structural Standard
- Soil Protection
- Land Use
- Protected Areas
- Retirement and Financial Assurance
- Fish and Wildlife Habitat
- Threatened and Endangered Species
- Scenic and Aesthetic Values
- Historic, Cultural and Archaeological Resources
- Recreation
- Public Services
- Waste Minimization
- Carbon Dioxide Emissions
- Need Standard for Nongenerating Facilities

Additional information on the EFSC siting process is available on-line at <http://www.oregon.gov/ENERGY/SITING/process.shtml>.

Washington Energy Facility Site Evaluation Council (EFSEC)

The EFSEC was created in 1970 and is the earliest consolidated siting process among the four states included in the Oregon comparative study. The EFSEC's jurisdiction covers power plants 250 MW and greater, liquid natural gas or underground gas storage facilities able to receive or deliver greater than 100,000,000 standard cubic feet of gas per day, petroleum product pipelines larger than six inches in diameter and 15 miles or longer in length, gas pipelines larger than 14 inches in diameter and 15 miles or longer in length, and facilities able to receive greater than 50,000 barrels or process greater than 25,000 barrels per day of crude or refined petroleum.

The EFSEC comprises agency representatives with a citizen chair. The Washington Department of Trade and Economic Development provides Council staff. A "counsel for the Environment," appointed by the Washington Attorney General, plays an important role in the overall project review including soliciting public input, providing general information concerning the EFSEC process, helping citizens inform the EFSEC of their concerns, and participating in the review process.

Applicants must pay an initial fee and fully reimburse all costs incurred during the process. Washington is the only state to incorporate the federally delegated water and air quality permits into the siting decision. Other specific provisions include: a land use hearing to determine consistency with local plans and ordinances, final decision making by the Governor, and local government vote on EFSEC for facilities within their jurisdiction.

Additional information on the EFSEC certification process is available on-line at <http://www.efsec.wa.gov/cert.shtml>.

Washington Office of Regulatory Assistance (ORA) Permit Facilitation

Washington's ORA, created in 2003 as a modification of an earlier Permit Assistance Center, oversees the Governor's Regulatory Improvement Program. It is established within Office of the Governor and its director reports to the Governor's Chief of Staff. In addition to permitting, the office works with licensing, tax collection, and other regulatory agencies to improve and simplify services.

Staff resources are provided by ORA to agencies through interagency funding/staffing agreements with, for example, the Washington State Department of Ecology, the Washington State Department of Information Services, and the U.S. Fish and Wildlife Service. Outside consultants may be engaged to assist through a contracting option whereby large projects can develop a cost sharing agreement with affected departments.

ORA provides a one-stop permit shop for projects other than those processed by EFSEC. Importantly, it does not have regulatory authority and is therefore not required to provide oversight of permitted projects as do the siting councils. While it promotes permit process efficiency, it also promotes environmental protection and has no authority to shorten permit timelines or make permit decisions. While local government participation encouraged, ORA has no jurisdiction over the counties.

ORA provides a multi-component approach to assist project applicants by helping agencies to carry out responsibilities as quickly as possible, including multi-agency facilitation of permit processes for large applications. The components are as follows:

- Comprehensive on-line resources;
 - Online Permit Assistance System
 - Project Questionnaire
 - Environmental Permit Handbook
 - Permit Process Schematics
 - Fact sheets
 - One-Stop E-Permitting Service for environmental permits
- One-Stop Service Center for call-in or walk-in assistance;
- Regional project facilitators to coordinate permitting agencies;
- A Multi-agency permitting team model deployed for transportation projects; and

- Joint Aquatic Resources Permit Application (JARPA), a consolidated environmental permitting application for multiple permits involving wetlands or aquatic lands.

As a result of ORA's efforts, Washington was recently recognized in Forbes.com's list of business-friendly states as one of two states with biggest gains in rankings over the past year. It was the only state to finish in the top five in three main categories – labor, regulatory improvement, and growth. In its August 8, 2007 article, Forbes.com states that "One of Washington's big strengths is reduced red tape. The state's Office of Regulatory Assistance helps individuals and businesses sort through the many layers of government regulation all in one place. If several state agencies need to be contacted for a new business to obtain permits, the work can be handled from one source." In 2007, "The Journal of the Environmental Council of the States" recognized Washington's web-based tools as one of three state best practices in its Annual Innovations Edition.

Additional ORA permit-related information is available on-line as follows:

- Get Help with Environmental Permitting
<http://www.ora.wa.gov/permithelp/default.asp>
- Online Permit Assistance System (OPAS) Project Questionnaire
<http://apps.ecy.wa.gov/opas/>
- Environmental Permit Handbook
<http://apps.ecy.wa.gov/permithandbook/>
- Environmental Permit Schematics
<http://www.ora.wa.gov/schematics/default.asp>
- Index of Publications
<http://www.ora.wa.gov/pubs.asp>

Task 4 – Comparatively evaluate the selected system models and determine strengths and weaknesses in view of the guidance provided by SCR 164. Prepare recommendations.

DBEDT's review has found that the siting council and facilitation models can be effective as a "one-stop permit shop" by streamlining permitting in two common key areas – multi-agency coordination early in the permitting process, and highly developed, easily accessible, thorough consolidated permitting information.

The siting councils take the one-stop shop concept to a more authoritative level, however, in that they also function as a consolidated permitting agency with regulatory responsibilities. For both councils, project applicants begin with a preliminary step—the EFSC's Notice of Intent (NOI), or the EFSEC's Preliminary Site Study—whereby state and local permit agencies identify laws, regulations, ordinances, and issues that will apply to the project. EFSC also will hold at least one informational public meeting during the NOI phase. Based on the findings of this preliminary step, applicants submit an application for site certification that, when complete, in the case of Oregon, must provide sufficient information for an assessment of the facility's potential impacts and follow-on processes including council recommendations, a public hearing, contested case

proceeding and final order. In the case of Washington, the complete application must have sufficient information necessary for development of an EIS and to conduct adjudicative hearings wherein proponents and opponents participate.

The siting council models have regulatory authority, and as a result, implementation in Hawaii will require significant changes to existing agency responsibilities and processes. When considering whether the siting council may be appropriate for Hawaii, it should be understood that both the Oregon and Washington siting councils have been in existence since the 1970s thus have evolved information, staff expertise, well-developed and well-understood procedures, and cooperative agency relationships.

Unlike the siting councils, the ORA does not have regulatory authority, however, it offers an effective customer oriented multi-component approach that additionally provides award winning website tools, an on-line permit handbook, a formalized multi-agency team for certain projects, a service center, regional facilitators, and a consolidated environmental permit application for projects involving wetland and aquatic lands.

Like the siting councils, the ORA has the ability to facilitate meetings of all stakeholder permit agencies and, for more complex projects, to inform them of the project plan and begin coordinated processing. The meetings, however, are voluntary. It does not hold public meetings or hearings although it allows a contracting option whereby an applicant may provide necessary funding to supplement agency permitting staff to process permits in a timely and efficient manner.

Through DBEDT's data collection experience during Task 1, it has been confirmed that Hawaii's permitting regime is rudimentary in comparison to those of Oregon and Washington, and DBEDT concurs with SCR 164's assertion that streamlined permitting would encourage the development of renewable energy projects.

A comparative analysis of the three systems selected for study is attached as Appendix II to highlight the key similarities and differences between two siting council models and between the siting council models and the facilitation model, and to facilitate understanding of their characteristics.

These key characteristics are as follows:

1. Process -- Regulatory certification vs. facilitative multi-component
2. Organization -- Siting council supported by departmental staff vs. agency attached to Governor's Office
3. Type of projects -- Large energy vs. all
4. Duration -- Life of project vs. limited to permit facilitation
5. Costs -- Full reimbursement vs. as negotiated
6. Jurisdiction -- All state and county (EFSC) or all state, county, some federal (EFSEC) vs. none (ORA)
7. Environmental review responsibility -- Standards-based (EFSC) or SEPA (EFSEC) vs. none

In the table below, DBEDT has further evaluated these characteristics against the following criteria:

- Ease of implementation
- Resources required to implement
- Application to project types
- Duration of involvement
- Jurisdictional issues

Criteria	EFSC 1. Regulatory certification 2. Siting council 3. Large only 4. Life of project 5. Full reimbursement 6. State & local 7. Standards based	EFSEC 1. Regulatory certification 2. Siting council 3. Large only 4. Life of project 5. Full reimbursement 6. State, local, federal 7. SEPA	ORA 1. Facilitative multi-component 2. Governor's office 3. Non-EFSEC 4. Permitting only 5. Per agreement 6. None 7. N/A
Ease of implementation	Difficult. Substantial modification of statutes and rules including substitution of standards for environmental review process.	Difficult. Substantial modification of statutes and rules including preemption of some federal approvals.	Relative ease. Requires statutory establishment of agency, positions, and responsibilities.
Resources required to implement	Substantial until applicants reimburse costs. Up front costs to establish system include legal considerations, relationship with counties and permitting agencies, revision of environmental review process, organizational structure. New regulatory positions required.	Substantial until applicants reimburse costs. Up front costs to establish system include legal considerations, relationship with counties and permitting agencies, revision of environmental review process, organizational structure. New regulatory positions required.	At least 2 non-regulatory FTEs and budget for website development.
Application to project types	Large energy	Large energy	All
Duration of involvement	Life of project	Life of project	Limited to project facilitation
Jurisdictional issues	All State and county agencies must comply.	All state and county and some federal agencies must comply.	None

Summary and Recommendations:

The siting council model offers streamlining strategies as follows:

- Permit requirements of state and local agencies are combined in a consolidated review process.
- A preliminary notice is required before an application is filed allowing disclosure and review of project information by permitting agencies and the public.
- A public information meeting is generally held early in process.
- Two level review process ensures coordination of permit requirements and provides that applicants may meet these requirements most efficiently.
- A "contested case" review of the application is required.

The facilitation model offers the following additional streamlining strategies:

- Comprehensive on-line resources are offered including:
 - Online Permit Assistance System --
 - Project Questionnaire
 - Environmental Permit Handbook
 - Permit Process Schematics
 - Fact sheets
 - One-Stop E-Permitting Service for environmental permits.
- A One-Stop Service Center is maintained for call-in or walk-in assistance.
- Project facilitators coordinate permitting agencies.
- Multi-agency permitting team model is deployed for transportation projects.
- A consolidated permit application includes multiple permits involving wetlands or aquatic lands.

The selection of the siting council model, the facilitation model, or any of the strategies employed by either of the models will depend upon the Legislature's intent with regard to ease of implementation, resources available for implementation, project size or other parameters, duration of involvement, and jurisdictional issues, among others. Implementation of the ORA model appears to be faster, less disruptive of Hawaii's existing permitting agencies, and less costly. It would additionally benefit Hawaii's regulatory processes by mitigating the informational difficulties encountered during Task 1. However, the siting council model may yield additional benefits that may outweigh costs of implementation.

As an analysis of the costs versus benefits of a siting council model is beyond the scope of this report, DBEDT recommends additional analysis to determine whether a Hawaii siting council may be appropriate. Such major revision of Hawaii's regulatory system for renewable energy projects must be thoroughly examined by stakeholder agencies prior to a decision to implement. It is imperative that all affected permitting statutes and regulations be identified to ensure adequate understanding of potential impacts of a siting council, especially if Oregon's standard-based model is considered.

Based on the findings during Task 1, should the Legislature determine that none of the models included in this study is appropriate, resources and staffing should be

provided to, at a minimum, implement key streamlining strategies of the ORA to consolidate, maintain, and make available up-to-date permitting information.

Finally, DBEDT appreciates that SCR 164 recognizes that “an expedited, streamlined process that retains adequate public oversight, entails investing in additional personnel,” and recommends strongly that any effort at streamlining Hawaii’s permitting processes be provided with the appropriate authority and commensurate resources to undertake this difficult task.

Appendices:

- I Possible Permits for Hawaii Renewable Energy Facility Siting (Draft)
- II Comparison of Oregon and Washington Consolidated Energy Permitting Systems

Appendix I

Possible Permits for Hawaii Renewable Energy Facility Siting (Draft)

POSSIBLE PERMITS FOR RENEWABLE ENERGY FACILITY SITING

NOTE: all information is pending review and confirmation; this listing is in progress as of November 2007 and is not complete. Applicability of some of these permits and processes to renewable energy facilities has not been confirmed. Not all permits which are likely to affect renewable energy development have been identified and listed. Permits applicable to one resource may not apply to others.

Agency	Permit/Approval	Applicable Activities/Areas	Authority and/or Reference	Contact	Comment
State Dept. of Agriculture Plant Industry Division		Importation of plant species			Invicta database used during import process
State Dept. of Budget and Finance Public Utilities Commission	Certificate of Public Convenience and Necessity	Required to operate a public utility. Capital expenditure over \$500,000. Does not apply to facilities producing power primarily or entirely from non-fossil resources and transmits that power to a public utility for transmission to the public.	HRS 296-7.5		
State Dept. Business, Econ. Dev. & Tourism Office of Planning	CZM Federal Consistency Review	Any activity which requires a federal permit or license, which uses federal lands, or which is undertaken directly by a federal agency.	HRS 205A 15 CFR 930 forms available online: www.hawaii.gov/dbedt/czm/federal_consistency/federal_consistency.html		The Coastal Zone Management Act encompasses wide-ranging policies intended to guide the conservation and development of land and water resources within the coastal zone in light of competing demands for limited and sensitive resources. The "coastal zone" includes all land areas of the state and extends seaward three miles to the limit of the state's jurisdiction.
Land Use Commission	Land Use District Boundary Amendment	Proposed change in land use larger than 15 acres, or any change of land use within a Conservation District, or in areas designated as important agricultural lands.	HRS 205		Forestry is an approved use in some Conservation District lands.
	Special Use Permit	Non-conforming uses of lands designated rural or agricultural by the State.	HRS 205		On agricultural land, approved uses include the cultivation of crops, farming activities, forestry, and the processing of ag products; also wind energy production.
State Dept. of Health Office of Environmental Quality Control	Environmental Review	A state EIS is required for projects which may have a significant effect on the environment and which use: state or county funds or lands; Conservation or Submerged Lands; Registered Historic Sites; Shoreline Setback Area; Waikiki Lands. Also those involving: rezoning Conservation District lands or amendments to county general plans; building helicopter facilities; building power plants (nonrenewable source); landfills; wastewater plants; waste to energy facilities or oil refineries.	HRS 343 "The Environmental Guidebook: A Guidebook for the Hawaii State Environmental Review Process" is available online at: www.state.hi.us/health/oeqc/publications/guidebook.pdf		The first discretionary permit approving agency is the primary EIA regulator.
Clean Air Branch	Stationary Source Air Permit (covered and noncovered)	Encompasses construction, installation and operation of a new air pollution source or modification of an existing source.	HRS 43, HRS 31 Clean Air Act (42 USC) HRS 342B, HAR Title 11, Ch 59-60		Separate "Authority to Construct" and "Permit to Operate" no longer needed.
Clean Water Branch	National Pollutant Discharge Elimination System (NPDES)	Discharging any pollutant, including thermal pollution; altering the quality of any discharge; increasing the quantity of any discharge; disturbing more than 1 acre of land during construction or operation of a facility. Concerns discharges into surface streams and coastal waters (up to 3 miles from shore) of the state.	33 USC 1344 Clean Water Act, Section 402 HRS 342D, part 3 HAR Title 11, Chapters 54 & 55 www.hawaii.gov/health/environmental/water/cleanwater/contact/forms/index.html		General Permits are found in HAR, Chapter 11-55, Appendices B - L, including once-through cooling water, storm water associated with industrial and construction activities, and treated process wastewater associated with well drilling activities.
	Water Quality Certification ("Zone of Mixing Permit")	Putting any "discharge" (including a device) into the water, from the shoreline to the 3-mile limit.	Clean Water Act, Section 401 HRS 342D HAR Title 11, Chapter 54 www.hawaii.gov/health/environmental/water/cleanwater/contact/forms/index.html		
	Wastewater Discharge		HAR Title 11, Chapter 62		
Noise, Radiation and Indoor Air Quality Branch	Noise Permit	Maximum daytime and nighttime decibel levels are specified for three classes of land use. In general, Class A is residential/conservation; Class B is commercial/hotel; Class C is agriculture/industrial. Permits are required if maximum decibel levels are to be exceeded.	HRS Chapter 342F? HRS 44? HAR Title 11, Chapter 46		
Safe Drinking Water Branch	Underground Injection Control (UIC) Permit	Injecting fluids into aquifer	40 CFR Part 144-147 HRS 340E HAR, Title 11, Chapter 23		
Solid and Hazardous Waste Branch	Regulated Underground Storage Tanks Permit				
	Resource Conservation and Recovery Act (RCRA) Part B Permit	Treatment, storage and disposal of hazardous wastes			
State Department of Labor and Industrial Relations Hawaii Occupational Safety and Health Div.	Boiler Installation Permit	Boilers and pressure vessels over 120 gal capacity	HRS 396 & 397 HAR, Title 12, Subtitle 8, Part 10	www.hawaii.gov/labor/hiosh	application available online. C-4 license not required for air tank or hot water storage tank.

State Dept. Land and Natural Resources Board of Land and Natural Resources	Geothermal resource subzone designation	Subzones are designated portions of land use zones (e.g., agriculture, conservation) within which geothermal development for electricity is allowed. BLNR authorizes and withdraws designations for subzones.	HRS 182-18 HRS 205; HAR Title 13, Chapter 184	Non-electric uses of geothermal energy are only restricted to subzones if they are within a conservation district.
	Incidental Take License	If endangered species are impacted, a Habitat Conservation Plan is needed.		Also needed by USFWS. Coordinated through OEQC; hearings may be joint; if federal HCP satisfies all criteria for state plan, a separate state HCP may not be needed. DLNR's Endangered Species Recovery Committee serves as consultant to BLNR, reviews all HCPs.
Historic Preservation Division	Historic Site Review	All activities funded, undertaken or permitted by the State or a county in the vicinity of a designated historic place or archaeological site. All parcels listed on the Hawaii Register of Historic Places.	HRS 6E	
Land Division	State Land Lease	Leases may be issued for state-owned lands statewide, including submerged lands. Required for any activity.	Applications for ocean and submerged land uses and leases authorized under HRS 190D. www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0190D/ The Application Form has been revised to comply with Section 171-95(a)(2)(3)c HRS.	HRS Sections 190D-11(a)(6) and (8) specifically require consideration of existing navigational, fishing, recreational, military, commercial and cultural uses of any targeted marine areas that may be affected by the proposed energy development.
Office of Conservation and Coastal Lands	Conservation District Use Application (CDUA)	Any use of Conservation lands, including submerged lands. The State Conservation District extends out to the State's territorial waters limit, usually 12 miles from shore.	Regulation 4 (?) HRS183C, reg 4?? State Conservation District is defined in HRS 183C. www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0183C/ CDU application available at: www.hawaii.gov/dlnr/occl/forms/CDUA-marine.pdf	Forestry is an allowed use in some Conservation lands.
Land Division, Engineering Branch	Geothermal Well Drilling Permit	Drilling, modifying, modifying the use of, or abandoning the wells drilled to explore for or develop geothermal resources.	HRS 174C, 182; HAR Title 13, Ch 183	Only applicable to geothermal fluids with temperatures over 150 deg F. (Permitting for a well encountering temperatures of 150 deg F or less would be the same as for a water well and would be handled by DLNR's Commission on Water Resource Management.)
	Geothermal Resource Mining Lease		HRS 182; HAR Title 13, Chapter 183	
	Geothermal Plan of Operations		HRS 182; HAR Title 13, Chapter 183	
	Geothermal Exploration Permit		HRS 174C, 182; HAR Title 13, Ch 183	
	Water Rights		HRS 174C; HAR 13, Ch 167-171	
State Dept. of Transportation Airports Division	Permit to Change Land Use, Construct or Alter Airports	Change land use, construct or alter a structure having a height greater than 35 feet within established hazard areas in close proximity to airports.	HRS 262	
Highways Division	Lease within an Energy Corridor	Maximizing the use of lands in connection with transporting energy by pipeline or other means.	HRS 277-1	
City and County of Honolulu Department of Planning and Permitting County of Hawaii Planning Department County of Kauai Planning Department County of Maui Planning Department	Special Management Area Permit	Development in coastal areas statewide. SMAs may be very narrow, or over a mile wide. SMA boundaries are mapped and enacted by each county's planning commission. For instance, Maui County has extended the SMA boundary landward beyond the state minimum requirements; in general, in Maui, the SMA is bounded by the shoreline on one side and the nearest State highway on the other.	HRS Chapter 205A Hawaii County Planning Commission Rule 9	In Hawaii County, "development" within an SMA needs either a "major" permit, issued by Planning Commission, or a "minor" permit, issued by Planning Director. A "major" permit is for projects valued over \$125,000 or those determined by Planning Director as possibly having a significant environmental impact. Some developments are "exempt" (e.g., construction of a single family home) unless Planning Director determines that it may have a significant environmental impact.
	Shoreline Setback Approval	Shoreline setback areas are a subset of the Special Management Area and range from 25 feet to 150 feet from the shoreline. Significant restrictions apply to the types of activities, structures, and/or developments that are permitted within the SSA. SSA is required prior to initiating construction, building or ground altering activities within the shoreline setback area. Shoreline setbacks are intended to protect natural shoreline environments, public use of the shoreline area, and public safety.	Shoreline Rules for the Maui Planning Commission: Title MC-12, Dept. of Planning, Subtitle 02, Maui Planning Commission Chapter 203. http://www.co.maui.hi.us/departments/Planning/pdf/mpcshoreline.pdf Title MC-12, Subtitle 03, Chapter 4 Rules of the Molokai Planning Commission Relating to the Shoreline Area of the Island of Molokai for Honolulu: Dept. of Planning and Permitting Rules	http://www.co.maui.hi.us/departments/Planning/planningforms.htm has SMA permit application, Shoreline Setback Variance, and other forms for Maui, Molokai and Lanai available for download. Only "minor" structures and/or "minor" activities are allowed within the SSA. While all proposed structures and/or activities are subject to approval, some are explicitly defined as permissible within the Shoreline Rules for Maui. "Minor structures" are defined in some counties as those which cost less than \$125,000, do not impede the natural movement of the shoreline, and do not alter the existing grade of the shoreline. Any other structure or activity may require a Shoreline Setback Variance. Utility poles along existing corridors may be
For the island of Molokai, the Molokai Planning Commission is the authority for a Shoreline Area Variance.				http://www.honolulu.gov/PermitInfo/

Part 2, Rules Relating to Shoreline
Setbacks and the Special Management
Area

permissible.

	Variations	Development requesting a variance from code requirements.		Zoning and subdivision codes allow variances for unusual situations; e.g., an unusually-shaped lot may justify a variance from building setbacks.
	Plan Approval	Most construction of buildings in commercial, industrial, and resort zones.		Similar to building permit review but also checks for things like adequate parking, landscaping, and ingress & egress, and compliance with conditions of zoning.
County planning agency?	Solid Waste Permit			
	Land Use Permit			
	Special Use Permit			
Kauai County Planning Department (other counties?)	Zoning Permit Applications	Different types of zoning-related permits are based on the use (commercial, industrial, etc.), size and nature of the development.		Usually submitted concurrently with building permit. Zoning permits are issued prior to approval of building permit. Ensures that the following requirements are complied with: Comprehensive Zoning Ordinance; Subdivision Ordinance; Community Development Plan Ordinance; General Plan Ordinance; Special Management Area Rules & Regulations; Shoreline Setback Variance Rules & Regulations; HRS 205. Contact Planning Dept. for details or to schedule a pre-permit consultation.
Hawaii County Planning Commission	Geothermal Resource Permit	Geothermal development activities in a Geothermal Resource Subzone within an agricultural, rural or urban land use district. "Activities" include research or commercialization purposes, or as otherwise defined.	HRS, Section 205-5.1 County of Hawaii rule #	
City and County of Honolulu Dept. of Planning and Permitting County of Hawaii Dept. of Public Works County of Kauai Dept. of Public Works, Engineering Division County of Maui	Grading/Grubbing Permits	In general, the grading (e.g., filling or excavation) of more than 100 cu. yd. of requires a grading permit, particularly where grading unreasonably affects existing drainage patterns of abutting properties. Grubbing permits are usually required when clearing or grubbing more than 1 acre of land.		On Kauai, a separate grubbing permit is not required when grubbing activities are performed in conjunction with a validly issued grading permit.
County of Kauai Dept. of Public Works, Engineering Division	Stockpiling Permit	Required when stockpile quantities equal or exceed 500 cu. yd. of material.		
County of Hawaii Dept. of Public Works County of Kauai Division of Public Works County of Maui Dept. of Public Works, Development Services Administration City and County of Honolulu Department of Planning and Permitting	Building Permit	Most buildings and structures need a permit.	Maui County: DSA@mauicounty.gov Director's Office, Dept. Public Works 200 S. High Street #322 Wailuku, HI 96783-2155 phone 808-270-7845 fax 808-720-7955 City and County of Honolulu: http://www.honolulu.gov/PermitInfo/	(Hawaii County): Planning Dept. reviews building permit applications to ensure that the building is a permitted use and has proper setbacks. (Kauai County): For the review and approval of building permits for structures in flood-prone areas, special provisions are required (e.g., for non-residential structures, the lowest floor must be elevated to or above the base flood elevation, or flood proofed 1 ft above base flood elevations.) For parcels within the coastal high hazard areas, the lowest framing member must be elevated to or above the base flood elevation. State Dept. of Health reviews permits to ensure that HAR Title 11 is followed e.g., Chapter 11.55, Water Pollution Control and Chapter 11.59.1, Solid Waste Management Control. (Maui County): Development Services Administration is responsible for review for compliance and enforcement of all applicable County codes and ordinances relating to building and subdivisions. As the central coordinating agency, this program circulates building plans and subdivision proposals, consolidates comments from all County, State & Federal agencies, and ensures those comments or concerns are addressed in the building permit process.

Appendix II

Comparison of Oregon and Washington Consolidated Energy Permitting Systems

Comparison of Oregon and Washington Consolidated Energy Permitting Systems

	Siting Council Model		Facilitation Model
	Oregon Energy Facility Siting Council	Washington Energy Facility Siting Evaluation Council (EFSEC)	Washington Office of Regulatory Assistance
Overview	<p>One-stop permitting system for larger energy facilities. Responsibilities include regulatory oversight through life of project including site restoration. Project which meets Standards is issued a Site Certificate which prescribes permit conditions and is binding on local and state agencies.</p> <p>Full cost reimbursement by applicant.</p>	<p>One-stop permitting system for larger energy facilities. Responsibilities include regulatory oversight through life of project including site restoration. Project approval process includes environmental review, state and county requirements, and delegated federal water and air permits. Site Certificate prescribes permit conditions and is binding on local, state, and appropriate federal agencies.</p> <p>Full cost reimbursement by applicant.</p> <p>“Energy Facilities – Site Location” statute, Chapter 80.50.110, preempts all other laws or regulations should there be a conflict.</p>	<p>One-stop permitting system for non-EFSEC projects. Elements include project facilitation and process coordination, call center, website, permit handbook, and multi-agency permitting teams.</p> <p>No regulatory role; works with existing agencies (local, state, federal, and tribal)</p> <p>Cost reimbursement for permit-related tasks upon agreement with applicant or project proponent.</p>
Date created	1975, as successor to Nuclear and Thermal Energy Council (1971)	1970	2003, as modification of earlier Permit Assistance Center (1995 – 1998)
Authority	Oregon Revised Statutes (ORS) 469.300 – 469.560 469.590 – 469.619 469.992	Chapter 80.50 Revised Code of Washington (RCW) Title 463 Washington Administrative Code (WAC)	Chapter 43.42 RCW Executive Order 06-02, Feb. 2006
Organizational Structure	<p>7 Council members appointed by Governor. Volunteer citizens.</p> <p>Oregon Dept. of Energy staff performs detailed review and analysis and makes recommendations to Council which makes final decisions.</p>	<p>State licensing agency – Chair appointed by Governor with representatives from 5 state agencies.</p> <p>Located in and staffed by the Department of Community, Trade, and Economic Development.</p>	<p>Office of Regulatory Assistance within Office of the Governor. Director reports to Governor’s Chief of Staff.</p> <p>Director oversees the Governor’s Regulatory Improvement Program (GRIP).</p>

	Siting Council Model		Facilitation Model
	Oregon Energy Facility Siting Council	Washington Energy Facility Siting Evaluation Council (EFSEC)	Washington Office of Regulatory Assistance
	Outside consultants engaged to assist.	Council makes recommendation to Governor for final approval. Outside consultants engaged to assist.	Staff resources provided by ORA to agencies through interagency funding/staffing agreements (e.g., with the Washington State Department of Ecology, the Washington State Department of Information Services, USFWS, NOAA Fisheries, etc.) Outside consultants may be engaged to assist through contracting option whereby large projects can develop a cost sharing agreement with affected departments..
Objectives	State level oversight of energy facilities to ensure adequate energy supply and protection of environment and public safety.	Approval and oversight process for siting, construction and operation with recognition of the following -- "the pressing need for increased energy facilities", "abundant power at reasonable cost", and minimal adverse effects.	Multi-agency collaboration to assist with permitting, licensing, tax collection, and other agencies to improve and simplify services. Promotes permit process efficiency and environmental protection. Bring a customer centered perspective/orientation to government
Applicable Projects	Large electric generating facilities (25 MW or more, 35 MW average capacity if from geothermal, solar, or wind), high voltage transmission lines, gas pipelines and radioactive waste disposal sites, biomass conversion plants if fuel may be burned to produce 6 billion Btu/day. Developers of smaller facilities can obtain separate approvals from local land use planning and permitting agencies.	Major non-hydro energy projects (350 MW or more) pipelines, refineries, petroleum storage, electrical transmission lines, alternate energy plants of any size by choice.	All, other than EFSEC projects

	Siting Council Model		Facilitation Model
	Oregon Energy Facility Siting Council	Washington Energy Facility Siting Evaluation Council (EFSEC)	Washington Office of Regulatory Assistance
Regulatory role	Regulate construction and operation; enforce compliance with state laws. Requires restoration. Council can impose fines or revoke a site certificate. Separate agencies have independent authority to enforce their permits.	Regulate construction and operation; enforce compliance with state laws and federal air and water discharge permits. Requires restoration. Regulatory authority to enforce compliance with state laws and conditions in site certificate through fines or by ceasing construction or operation of the project.	None
Responsibilities	Administers energy facility siting statutes to protect environment and public health and safety. Specific standards are used to determine compliance thus process differs from permitting process in other states and other Oregon state and local agencies. If standards are met, issues site certificate that binds state and local jurisdictions to the Council's action and requires them to issue permits, licenses and certificates for construction and operation of the facility. Monitors the construction and operation of the facility.	Coordinates all of the evaluation and licensing steps for siting major energy facilities. If a project is approved, EFSEC specifies the conditions of construction and operation; issues permits in lieu of any other individual state or local agency authority; and manages an environmental and safety oversight program for facility and site operations.	Legislative mandate is to assist applicants to navigate the environmental permit system. Advocates for a clear, thorough and swift as possible permit process. No authority to shorten permit timelines or make permit decisions. Facilitates multi-agency permit processes for large applications Provides thorough information to applicant and helps agencies to carry out responsibilities as quickly as possible.
Process/ Procedures	One-stop process; consolidated at state level. Certification process: 1. Notice of Intent – To identify issues and staffing needs.	One-stop process; consolidated at state level. Certification process: 1. Preliminary (Potential) Site Study to identify insurmountable environmental,	One-stop process; consolidated at state level. Multi-component approach. -- Comprehensive on-line resources: • Online Permit Assistance System - Project Questionnaire

	Siting Council Model		Facilitation Model
	Oregon Energy Facility Siting Council	Washington Energy Facility Siting Evaluation Council (EFSEC)	Washington Office of Regulatory Assistance
	<p>Public notice and meeting.</p> <p>Applicant gathers data for permits.</p> <p>Review concludes with issuance of Project Order specifying applicable statutes, rules, and local ordinances. Identifies needed impact assessments.</p> <p>2. Certification –</p> <ul style="list-style-type: none"> - Application for Site Certificate - Filing of Application by Department after determination of completeness. - Draft proposed order - Public hearing - Proposed order - Contested case proceeding - Final order - Appeal directly to the Oregon Supreme Court. <p>Site Certificate must be issued if facility meets standards.</p>	<p>social, or regulatory obstacles.</p> <p>Independent consultant prepares environmental impact and any other essential information.</p> <p>Public meetings to identify issues.</p> <p>2. Certification – 6 steps</p> <ul style="list-style-type: none"> - Application submittal. - Review by independent consultant. - Initial public hearings. - Environmental impact statement. - Adjudicative proceedings and permits review. - Recommendation to Governor. <p>If recommended, Site Certification Agreement with conditions for construction and operation for life of project is drafted.</p>	<ul style="list-style-type: none"> - Environmental Permit Handbook - Permit Process Schematics - Fact sheets <ul style="list-style-type: none"> • One-Stop E-Permitting Service for environmental permits <p>-- One-Stop Service Center for call-in or walk-in assistance.</p> <p>-- Regional project facilitators coordinate permitting agencies and facilitate:</p> <ul style="list-style-type: none"> • Pre-application meeting with applicant • E-mail distribution list • Permit team updates <p>-- Multi-Agency Permitting Team model deployed for transportation projects.</p> <p>-- Joint Aquatic Resources Permit Application (JARPA), a consolidated permit application for environmental permitting process, whereby multiple regulatory agencies created one application for multiple permits involving wetlands or aquatic lands.</p>
Expedited review	Available for small capacity facilities	Available for projects that meet criteria	N/A
County involvement	Applicant chooses whether to seek land use approval from local jurisdiction or to have the Council make land use determination. Dept. consults with other state and local agencies during certification process.	Counties or any other jurisdictions have input during Preliminary Site Study and application review. Site certificate is binding on state and local agencies and federally delegated	County participation encouraged. No jurisdiction over counties.

	Siting Council Model		Facilitation Model
	Oregon Energy Facility Siting Council	Washington Energy Facility Siting Evaluation Council (EFSEC)	Washington Office of Regulatory Assistance
	Site Certificate is binding on all state and local agencies but not federally-delegated permits.	permits.	
Environmental review	<p>Project must meet Council's siting standards to receive a site certificate –</p> <ul style="list-style-type: none"> -General Standard of Review -Organizational Expertise (includes ability to restore site.) -Structural Standard -Soil Protection -Land Use -Protected Areas -Retirement and Financial Assurance -Fish and Wildlife Habitat -Threatened and Endangered Species -Scenic and Aesthetic Values -Historic, Cultural and Archaeological Resources -Recreation -Public Services -Waste Minimization -Carbon Dioxide Emissions -Need Standard for Nongenerating Facilities <p>See Oregon Administrative Rules (OAR) Chapter 345, Divisions 22 - 24</p>	<p>Environmental impact analysis based on State Environmental Policy Act requirements</p> <p>Incorporates federally delegated water and air quality permits into siting decision.</p>	May coordinate permit processing at request of applicant or project proponent under a cost reimbursement agreement.
Processing Time	Variable – 9 months to 6 years Typical standard process: 29 months from receipt of Notice of Intent and final decision by Council	According to Chapter 80.50.100, RCW, council shall submit recommendation to the Governor within 12 months of application receipt, or later upon agreement with applicant. Governor has 60 days to approve, reject, or direct reconsideration.	
Number of	12 Site Certificates under standard	Currently, 4 projects under review, 5	

	Siting Council Model		Facilitation Model
	Oregon Energy Facility Siting Council	Washington Energy Facility Siting Evaluation Council (EFSEC)	Washington Office of Regulatory Assistance
facilities processed or Under review	review process; 5 Site Certificates under expedited process (1994 – 2007) most for natural gas power plants	permitted	
Permitting staff	3 FTE staff (professional subject experts)	6 FTE staff, 2 of which manage contracts with other agencies	Service/Call center – 3 FTE 5 regional offices – 1 FTE each Information Technology manager – 3 FTE
Funding sources	Costs charged to developers Initial fees; full reimbursement of all expenses incurred by Council and staff including standards review.	Costs charged to developers Initial fees; full reimbursement of all expenses incurred including environmental review.	1. General Fund - State 2. Cost reimbursement of reasonable costs incurred by outside consultants selected by office and participating permit agencies to perform permitting tasks. Subject to proponent's request and written agreement.