



*The League of Women Voters of Oregon is a 102-year-old grassroots nonpartisan political organization that encourages informed and active participation in government. We envision informed Oregonians participating in a fully accessible, responsive, and transparent government to achieve the common good. LWVOR Legislative Action is based on advocacy positions formed through studies and member consensus. The League never supports or opposes any candidate or political party.*

June 22, 2022

To: EFSC.rulemaking@oregon.gov

Re: Comments on EFSC Proposed Rulemaking for Implementation of HB 2021 (2021)

The League of Women Voters of Oregon (LWVOR) believes that climate change is a serious threat facing our nation and planet. The League believes that an interrelated approach to combating climate change—including through energy conservation, air pollution controls, building resilience, and promotion of renewable resources—is necessary to protect public health and defend the overall integrity of the global ecosystem.

We have reviewed the Energy Facility Sitting Council (EFSC) [Proposed Rulemaking](#) for compliance with HB 2021 (2021).

LWVOR provided [testimony](#) in support of the final version of HB 2021 including the following paragraph:

Finally, we approve of the changes made to the section on natural gas plants. Instead of explicitly allowing renewable natural gas and not excluding expansion of existing plants, it now limits new and expanded plants to “only nonemitting electricity.” We recognize that the way “nonemitting electricity” is defined may allow for carbon capture and storage.

LWVOR provided public [testimony](#) for the rules for the Climate Protection Program including:

The good news is that HB 2021 (100% Clean Energy) was passed this year ... However, the generation of natural-gas-powered electricity generated in Oregon and exported to another state is not covered by HB 2021. At the current time, the amount of that electricity is very small. However, if other states start buying that electricity, DEQ should have the authority to move it under the natural gas cap.

We believe that these rules could provide a way to limit the export of fossil-fueled electricity.

Although Section 28 in HB 2021 (2021) is titled “Natural Gas Plants,” it actually applies to all facilities that produce electricity from fossil fuels. We appreciate that the description of “fossil fuel” in HB 2021 was identical to the definition in the existing rules (OAR 345-001-0010): “natural gas, petroleum, coal and any form of solid, liquid or gaseous fuel derived from such materials.”

#### HB 2021 Section 28 (1) New generating facility

There are several areas in the proposed rules that specifically discuss fossil-fueled power plants. We believe the key change was to completely rewrite OAR 345-024-0500, including retitling it to Standards for Fossil-Fueled Power Plants and Energy Facilities that Emit Carbon Dioxide and dividing it into two sections, one for fossil-fueled power plants and the second for nongenerating facilities.

(1) Notwithstanding rules in OAR 345-024-0503 through 345-024-0720, to issue a site certificate for a fossil-fueled power plant on or after September 25, 2021, the Council must find that the facility will only generate electricity in a manner that does not emit greenhouse gasses into the atmosphere.

We are especially pleased that the Notice of Intent being submitted for site approval, of a thermal power plant generating electric power from fossil fuel, must include “a discussion of methods the facility will use to ensure that the facility does not emit greenhouse gasses into the atmosphere, and a description of any equipment the facility will use to capture, sequester, or store greenhouse gases.”

HB 2021 Section 28 (2) Amendment to existing Notice of Intent

HB 2021 specifies that an amendment to a site certificate approved before its effective date could not be approved if it would “significantly increase the gross carbon dioxide emissions.” We found the adoption of this requirement in the proposed rules to be confusing and possibly not in compliance with HB 2021. Based on our limited review, here are some changes we ask you to consider. We are not sure why HB 2021 considers all greenhouse gas emissions for new sites and only carbon dioxide for the amendment for existing sites but we have accepted that in our suggested changes.

Changes Exempt from Requiring an Amendment: OAR 345-027-0353 was not changed in the proposed rules. Existing (1) provides that an increase in fuel consumption of less than 10 percent would not require an amendment. This exception was not included in HB 2021, and we are concerned that an increase of 10 percent could lead to an increase of carbon dioxide emissions by 10 percent, which we do not consider to be insignificant. We recommend that this be deleted.

Amendment of Notice of Intent: OAR 345-020-0016 should be updated to include the specific requirement in HB 2021 that an amendment will not be approved if it would significantly increase the gross carbon dioxide emissions. Because the overall intent of HB 2021 is to decrease greenhouse gas emissions, we suggest that for this amendment the extension of the expiration date should be precluded unless the facility will capture and sequester or store all the carbon dioxide emissions.

Scope of Council Review: OAR 345-027-0375 (2) states that to issue an amended site certificate, the Council must determine that the preponderance of evidence on the record supports the following conclusions:

(d) (newly added by proposed rules) For a request for amendment to a site certificate for a fossil-fueled power plant, the proposed change will not result in a significant increase in the gross carbon dioxide emissions that are reasonably likely to result from the operation of the facility. For the purposes of this subsection, an incremental increase in capacity or heat rate resulting from changes that otherwise falls within the limits of OAR 345-027-0353(1) does not significantly increase the gross carbon dioxide emissions that are reasonably likely to result from the operation of the energy facility.

Since we have recommended the elimination of OAR 345-027-0353(1), the second sentence above should also be eliminated.

We appreciate the effort you have taken in incorporating the siting requirements in HB 2021 and thank you for the opportunity to provide comments.



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