

Rulemaking Advisory Committee

Application Process Review Phase 1 Rulemaking

April 27, 2023

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Agenda

- **1:00** Welcome and Introductions
- **1:15** Presentation by ODOE staff on rulemaking
- **2:00** Questions / Comments on presentation
- **2:30** Break
- **2:40** Additional comments and suggestions from other RAC members.
- **3:15** Public comment opportunity – time for members of the public who are not on the RAC to provide comment
- **3:45** Discussion of next steps

Background - Rulemaking Process



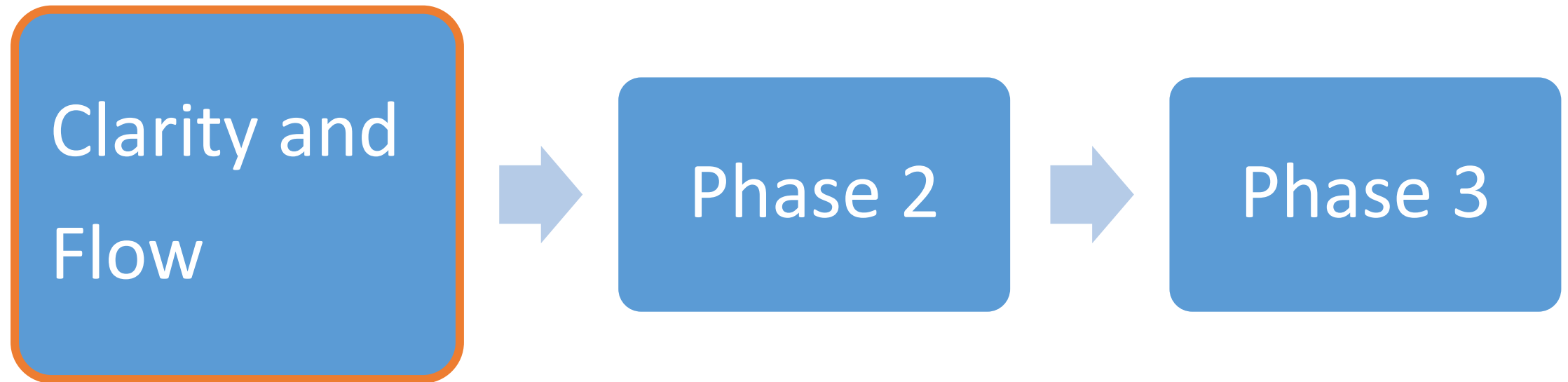
Background - Rulemaking Process



Three Phased Approach



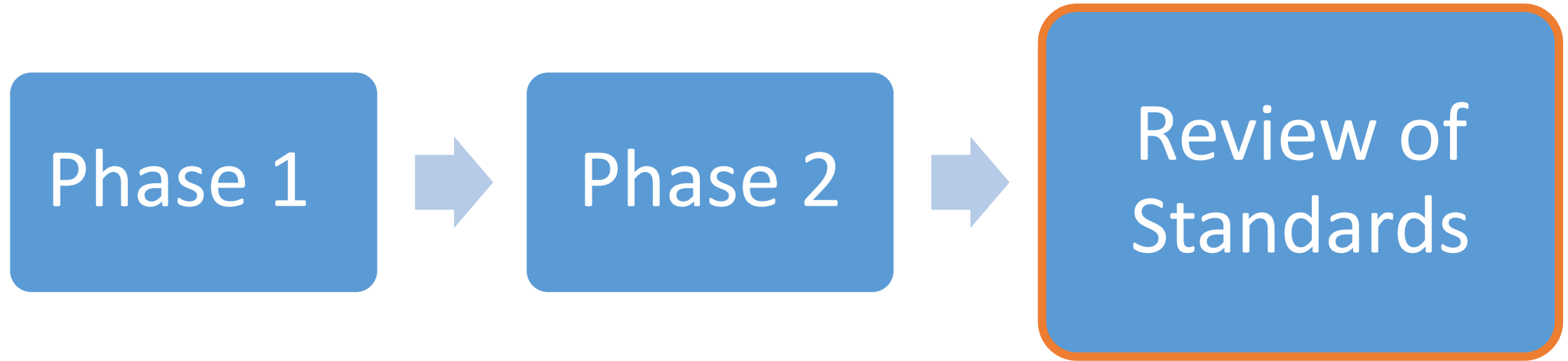
Phase 1 – Application Process



Phase 2 – Application Content



Phase 3 – Council Standards



Background – Scope and Objectives of Phase 1

- **Scope:** Update rule language in Divisions 015 – 026 (currently only 015 – 022)
- **Objectives:**
 - Ensure that procedural rules are internally consistent and flow logically
 - Remove ambiguity about which party is responsible for various application processes
- **Outside Scope:** Substantively altering any existing process, or modifying the standards applied by the Council in determining whether to grant a site certificate

Summary of Phase 1 Draft Rules

Three Categories of Changes in Phase 1:

1. Consolidating references to Department responsibilities into Division 15
2. Modifying the structure of division 15 to be consistent across the different stages of the siting process
3. Making editorial changes to rule language throughout 15, 20, and 21 to improve clarity and consistency.

Consolidating Department Responsibilities

- Language from Division 20 and 21 directed at the Department (“**The Department must/shall**”) has been moved into Division 15.
- Example 1:
 - “The **Department must** issue public notice . . . of any amendment”
 - Originally found at OAR 345-020-0016(2)
 - Now moved to a subsection of 345-015-0110

Consolidating Department Responsibilities

- Language from Division 20 and 21 directed at the Department (“**The Department must/shall**”) has been moved into Division 15.
- Example 2:
 - OAR 345-021-0050 (Distribution **by Department** of a preliminary application and the accompanying memorandum)
 - Removed from Division 021
 - Merged with OAR 345-015-0180 (Describing the content of the Department’s memorandum on the preliminary application)

Division 15 Better Internal Consistency

Siting process has stages:

- The notice of intent
- The project order
- The preliminary application
- Etc.

Division 15 Better Internal Consistency

Current Rules:

- The notice of intent
 - Rules organized one way
- The project order
 - Rules organized a second way
- The preliminary application
 - Rules organized a third way

Division 15 Better Internal Consistency

Draft Rules:

- The notice of intent
 - Subset of rules
- The project order
 - Subset of rules
- The preliminary application
 - Subset of rules

Division 15 Better Internal Consistency

Current Rules:

- OAR 345-0110 – Public Notice of a Notice of Intent
 - No corresponding rule exists for the Preliminary Application or Complete Application stages
 - Notice procedures are currently in OAR 345-021-0050 and 345-015-0190

Division 15 Better Internal Consistency

DRAFT VERSION:

- OAR 345-015-0110 – Public Notice of a Notice of Intent
- OAR 345-015-XXXX – Public Notice of a Preliminary Application
- OAR 345-015-XXXX – Public Notice of a Complete Application for Site Certificate

Clarity and Consistency

Removal of now redundant references to rules that have been combined with the rules they used to reference:

- Deleting the reference “under OAR 345-021-0055” from rule language that has been combined with OAR 345-021-0055 and would now be redundant

Clarity and Consistency

Making rules internally consistent:

- Modifying OAR 345-015-0120(3) to add the word “time” and remove the word “agenda” to match corresponding language used in OAR 015-0110(2)(f)
 - 345-015-0120(3): “State the date, time, location, ~~agenda~~ and **purpose** of any informational meeting that the Department has scheduled on the NOI and encourage the recipient to attend and participate in the informational meeting.”
 - 345-015-0110(2)(f): “**The date, time, and location, and purpose** of any informational meeting on the NOI that the Department has scheduled”

Clarity and Consistency

Conforming language to longstanding practice:

- Removed “in coordination with the applicant” from OAR 345-015-0180(2):
 - “After receiving the preliminary application the Department must, ~~in coordination with the applicant,~~ determine a distribution date and compile a distribution list that includes, but is not limited to, the reviewing agencies for the proposed facility.”
 - Note this language was originally found in OAR 345-021-0050(1)