From: GARRAHAN Paul
To: WIND Cory Ann
Cc: cfp2018
Subject: RE: CFP 2018 Notice of Proposed Rulemaking
Date: Monday, August 27, 2018 16:47:02

Cory-Ann: I will answer your specific question now, and I will try to get my review done tomorrow.

ORS 183.555(2) provides:

(2)(a) Each agency shall file with the office of the Secretary of State each rule adopted by the agency.
(b) Unless otherwise provided by rule adopted by the Secretary of State, an agency adopting a rule incorporating published standards by reference is not required to file a copy of those standards with the Secretary of State if:
(A) The standards adopted are unusually voluminous and costly to reproduce; and
(B) The rule filed with the Secretary of State identifies the location of the standards so incorporated and the conditions of their availability to the public.

I think that you can treat the OR-GREET and OPGEE models as "published standards" that you are adopting by reference, provided that you can defend that they are "unusually voluminous and costly to reproduce." If they meet that test, then you must be sure to identify the location where you can find them and how the public can review copies of them. It strikes me that, because they are, effectively, complicated spreadsheets (right?), it would be nearly impossible to reproduce then in writing. It is their underlying codes that are relevant—really you need to see them in their active form to understand them completely, I think. To me, that would make reproducing them voluminous (because you have to figure out how to explain them) and costly to reproduce (because that will be time-consuming to prepare the description).

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From: WIND Cory Ann [mailto:Cory.Ann.WIND@state.or.us]
Sent: Friday, August 24, 2018 4:42 PM
To: GARRAHAN Paul
Cc: cfp2018; WIND Cory Ann
Subject: CFP 2018 Notice of Proposed Rulemaking
Importance: High

Welcome back Paul. Hope you had a nice, restful vacation and caught lots of crabs!

Attached is the draft notice of proposed rulemaking and proposed rule changes to Division 253 and 12. We really didn't change anything substantive since the fiscal document so most of the new language is in the statement of need.

One question that I would love clarification on: Since the rules reference the OR-GREET and OPGEE

models, do we need to post them when we post the notice? We've never done it before and have simply posted it on our webpage for stakeholders to have access to it. It seems that Meyer/Emil are now thinking that we need to attach it to the notice. Thoughts?

I know this is a really tight turnaround for you, but Emil would like to post the notice on Thursday, August 30th and not wait until Friday, August 31st just in case something goes sideways and still be able to be published on September 1st. I briefed Ali and Michael on it already and told him that there was no substantive comments at the last advisory committee meeting nor in the last round of informal written comments. As always, let me know if you have any questions.

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