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**TEMPORARY ADMINISTRATIVE RULES**

Department of Energy	330
Agency and Division	Administrative Rules Chapter Number
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Upon filing.	
Adopted on	
07/24/2017 thru 01/19/2018	
Effective dates	

**RULE CAPTION**

Extending application deadline for stranded thermal generation eligibility.  
Not more than 15 words

**RULEMAKING ACTION**

**ADOPT:**

**AMEND:** 330-160-0015

**SUSPEND:**

**Stat. Auth.:** ORS 469.040, ORS 469A.130, and Oregon Laws 2016, Chapter 28

**Other Auth.:**

**Stats. Implemented:** ORS 469A.010 - 469A.025, ORS 469A.130, and Oregon Laws 2016, Chapter 28

**RULE SUMMARY**

The temporary rule amendments would extend the deadline by five months for stakeholders to apply for thermal renewable energy certificates (T-RECs) associated with qualifying thermal generation that occurred between the effective date of Oregon Laws 2016, chapter 28 (SB 1547), March 8, 2016, and the date that relevant Oregon Department of Energy (ODOE) rules were effective, December 21, 2016. Thermal generation associated with this timeframe is defined as 'stranded thermal generation' in OAR 330-160-0015(23). In developing rules related to T-RECs for stranded generation, ODOE provided a deadline of August 1, 2017 for stakeholders to register for thermal generation in the Western Renewable Energy Generation Information System (WREGIS) and to submit an application for

certification to ODOE.

Due to unforeseen delays related to technical issues, WREGIS does not expect to have the ability to register facilities for thermal energy generation until sometime after August 1, 2017. Additionally, in providing technical assistance to generator representatives on their RPS certification applications, ODOE has made refinements to both the application itself and the application process. The temporary rule would extend the August 1, 2017 deadline for applying to ODOE for stranded thermal generation to January 1, 2018, and would delete the deadline for facilities to register with WREGIS while retaining the requirement for facilities to report thermal generation to WREGIS within six months of gaining approval from ODOE. The department plans to file permanent rules having the same effect as the proposed temporary rules before January 1, 2018.

## STATEMENT OF NEED AND JUSTIFICATION

Thermal renewable energy certificates for stranded thermal generation.

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In the Matter of

ORS chapter 469A: [https://www.oregonlegislature.gov/bills\\_laws/ors/ors469A.html](https://www.oregonlegislature.gov/bills_laws/ors/ors469A.html)  
Senate Bill 1547:  
<https://olis.leg.state.or.us/liz/2016R1/Downloads/MeasureDocument/SB1547/Enrolled>  
RPS Rules:  
[http://arcweb.sos.state.or.us/pages/rules/oars\\_300/oar\\_330/330\\_160.html](http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_330/330_160.html)  
RPS Rulemaking records:  
<http://www.oregon.gov/energy/Get-Involved/Pages/RPS-Rulemaking.aspx#Anchor1>

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Documents Relied Upon, and where they are available

The temporary rule is needed to extend the deadline by five months for stakeholders to apply for thermal renewable energy certificates (T-RECs) associated with qualifying thermal generation that occurred between the effective date of Oregon Laws 2016, chapter 28 (SB 1547), March 8, 2016, and the date that relevant Oregon Department of Energy (ODOE) rules were effective, December 21, 2016. Additionally, the temporary rule will remove the requirement that generator representatives must be registered for thermal generation by the deadline. Thermal generation associated with this timeframe is defined as "stranded thermal generation" in OAR 330-160-0015(23). In developing rules to establish a program for T-RECs, ODOE provided a deadline of August 1, 2017 for stakeholders wishing to claim T-RECs associated with stranded thermal generation to:

- 1) Register the facility for thermal generation in the Western Renewable Energy Generation Information System (WREGIS); and
- 2) Submit an application for certification for eligibility for thermal generation for the renewable portfolio standard (RPS) to ODOE.

As ODOE engaged with stakeholders during the 2016 rulemaking, the August 1, 2017 deadline was determined to allow a reasonable period of time for WREGIS to add functionality to its online tracking system to accommodate registration of facilities for thermal generation and for generator representatives to complete and submit an application to ODOE for certification as RPS-eligible. However, due to unforeseen delays related to technical issues, WREGIS does not expect to have

the ability to register facilities for thermal energy generation until sometime after August 1, 2017. Additionally, in providing technical assistance to generator representatives on their RPS certification applications, ODOE has made refinements to both the application itself and the application process. Thus, it is neither realistic nor reasonable to expect thermal generation facilities to meet the August 1, 2017 deadline originally set by rule in December 2016. ODOE and stakeholders did not realize that the August 1, 2017 deadline was not realistic until too little time remained to conduct a rulemaking, thus the need for the temporary rule to allow time for a formal rulemaking process.

The temporary rule would extend the August 1, 2017 deadline for applying for stranded thermal generation to January 1, 2018. This extension would provide a reasonable period of time for generator representatives from qualifying thermal facilities to meet the requirements for claiming stranded thermal generation. Additionally, the temporary rule will remove the requirement that facilities be registered as eligible for thermal generation in WREGIS. This removal is necessary because WREGIS will handle registration of facilities for thermal generation differently than for all other generation types. Whereas a facility using, for example, solar power to produce renewable electricity must first register with WREGIS and then apply for Oregon RPS certification, biomass cogeneration facilities wishing to generate T-RECs will need to first apply to ODOE for certification and then register as eligible for thermal energy in WREGIS. This administrative change in the WREGIS process was determined after the completion of the formal rulemaking and as such, the current RPS rules do not accurately reflect the application and registration process. Without this temporary rule, not a single facility would qualify for T-RECs associated with stranded thermal generation, because WREGIS will not be able to accommodate registration for thermal generation on or before August 1, 2017. Additionally, the extension to January 1, 2018 would afford more time for facility representatives to complete the very technically involved process of applying to ODOE for RPS eligibility for thermal generation, which is the second requirement for claiming stranded thermal generation.

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Need for the Temporary Rule(s)

ODOE finds that prompt action to adopt this rule is needed to allow an additional five months for generator representatives to apply for and earn T-RECs associated with stranded thermal generation due to unforeseen technical issues with WREGIS. ODOE finds that failure to promptly adopt this rule will mean that eligible biomass cogeneration facilities will not realize the economic benefit of ten months' worth of T-RECs and these credits will not be available for use in complying with the Oregon RPS. This represents a wasted economic benefit for biomass cogeneration facilities, utilities who must purchase RECs and T-RECs to comply with the Oregon RPS, and, potentially, Oregon utility ratepayers whose rates reflect the costs of doing business, which includes compliance with the RPS. The temporary rule amendment will not negatively impact stakeholders, but will allow for Oregon to fully realize the economic benefits of all of its RPS-eligible renewable energy generation.

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Justification of Temporary Rules



Authorized Signer

Michael Kaplan

Printed Name

7.20.17

Date

Authorization Page replaces the ink signature on paper filings. Have your authorized signer sign and date, then scan and attach it to your filing. You must complete this step before submitting your Permanent and Temporary filings.