



Oregon

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To: Energy Facility Siting Council

From: Thomas Jackman, Rules Coordinator

Date: November 3, 2023

Subject: Agenda Item C (Action Item): Standby Generator Rulemaking Initiation Request for the November 17, 2023 EFSC Meeting

Attachments: Attachment 1: Draft Notice of Proposed Rulemaking
Attachment 2: Draft Redline of Proposed Rule

BACKGROUND

The legislature enacted HB 2063 in 2021, which prohibits the Council from requiring a person proposing to construct a standby generation facility to submit an exemption request to the Council. Generator operators still need to meet Department of Environmental Quality standards when they intend to build standby power generation systems. The purpose of this rulemaking is to update Council's rules to conform with HB 2063.

ORS 469.320(7)

As used in this section:

(a) "Standby generation facility" means an electric power generating facility, including standby generators and the physical structures necessary to install and connect standby generators, that provides temporary electric power in the event of a power outage and that is electrically incapable of being interconnected with the transmission grid.

(b) "Total energy output" means the sum of useful thermal energy output and useful electrical energy output.

(c) "Useful thermal energy" means the verifiable thermal energy used in any viable industrial or commercial process, heating or cooling application.

RULE CHANGE OVERVIEW

Council rules currently require that "[a]ny person wishing to construct and operate a facility exempt from Council jurisdiction shall submit a request for exemption to the Department of Energy before beginning construction." See OAR 345-015-0360(1). This proposed rule amendment removes the requirement to seek Council approval for an exemption as it pertains to the construction of a standby generator. See OAR 345-105-0360(1) and (8) in Attachment 2.

NEXT STEPS AND PROJECTED RULEMAKING TIMELINE

If Council is satisfied with the draft proposed rules, staff requests authorization to issue a Notice of Proposed Rulemaking and initiate formal proceedings to adopt the proposed amendments to Division 15. Staff also recommends that Council hold a rulemaking hearing as part of the formal public comment period. The table below presents the procedural history and projected timeline for the remainder of this project based on these recommendations.

Procedural History and Projected Rulemaking Timeline

Council approves Standby Generator rulemaking as part of 2023 schedule.	December 16, 2022
Council approves proposed rules and authorizes Notice of Proposed Rulemaking	November 17, 2023
Issue Notice of Proposed Rulemaking	November 21, 2023
Rulemaking hearing (not at a Council meeting)	December 11, 2023
Public comment deadline	December 29, 2023
Council adoption of permanent rules	January 26, 2024

STAFF RECOMMENDATION

Staff requests Council authorization to issue a Notice of Proposed Rulemaking and initiate formal proceedings to adopt the proposed amendments to the standby generator exemption rules as shown in Attachments 1 and 2.