# Oregon Department of ENERGY

Energy Facility Siting Council Meeting

ODOE office 550 Capitol St NE Salem, Or

December 19, 2025









## Opening Items:

- Call to Order
- Roll Call
- Announcements



### Announcements:

- Reminder to Council and to anyone addressing the Council to please remember to state your full name clearly, and no not use the speakerphone feature, as it will create feedback.
- You may sign up for email notices by clicking the link on the agenda or the Council webpage.
- You are also welcome to access the online mapping tool and any documents by visiting our website.



### Announcements continued:

- Please silence your cell phones
- Please use the "Raise Your Hand" feature in Webex to speak during the public comment period, or press \*3 to raise your hand if you are participating by telephone.
- Energy Facility Council meetings shall be conducted in a respectful and courteous manner where everyone is allowed to state their positions at the appropriate times consistent with Council rules and procedures. Willful accusatory, offensive, insulting, threatening, insolent, or slanderous comments which disrupt the Council meeting are not acceptable. Pursuant to Oregon Administrative Rule 345-011-0080, any person who engages in unacceptable conduct which disrupts the meeting may be expelled.

## Agenda Item A (Action Item & Information Item)

### **Consent Calendar**

- November Council Meeting Minutes
- Council Secretary Report

**December 19, 2025** 



## Compliance Incident Updates

Facility	Issue	Status
Trojan Nuclear Facility	Security incident	Closed



### 2024 Annual Report Non-Compliance Updates

	Facility	Condition Summary	Rationale for Non- Compliance	Data or Action Required	Timing of Resolution
	Shepherds	Weed Control	across site and in turbine	Submit updated weed control plan and implement	2026
Flat Central	Flat Central	Turbine Pad Management			
		Revegetation	throughout site, unsuccessful	Submit updated revegetation plan and implement	2026
		Revegetation Post- Repower			
		Wildlife Monitoring & Mitigation Plan	Failed juniper plantings (raptor mitigation)	Complete updated mitigation proposal	2026
		Habitat Mitigation Plan	Annual monitoring and habitat mitigation actions did not occur	Complete required activities and monitoring	2026
		Post-Repower 2-Year Avian & Bat Fatality Monitoring	Department does not have 2024 report (Year 2)	Information Request	December 2025



### 2024 Annual Report Non-Compliance Updates

Facility	Condition Summary	Rationale for Non- Compliance	Data or Action Required	Timing of Resolution
Klamath Falls Cogeneration Plant	Use of HRSG boiler blowdown as cooling tower makeup	This issue was identified as a past audit finding and remains unresolved. The 2023 Annual Report explicitly states: "The KCP facility is non-compliant with condition IV.P.8 [sic]. This has been reported and an amendment is in progress with Avangrid legal."	The CH must either adhere to the condition as written in the site certificate or submit a Request for Amendment to the Department to remove or modify the condition.	2026



## Agenda Item B (Action Item)

### **Annual Rulemaking Schedule**

Thomas Jackman, Siting Policy Analyst and Rules Coordinator

December 19, 2025

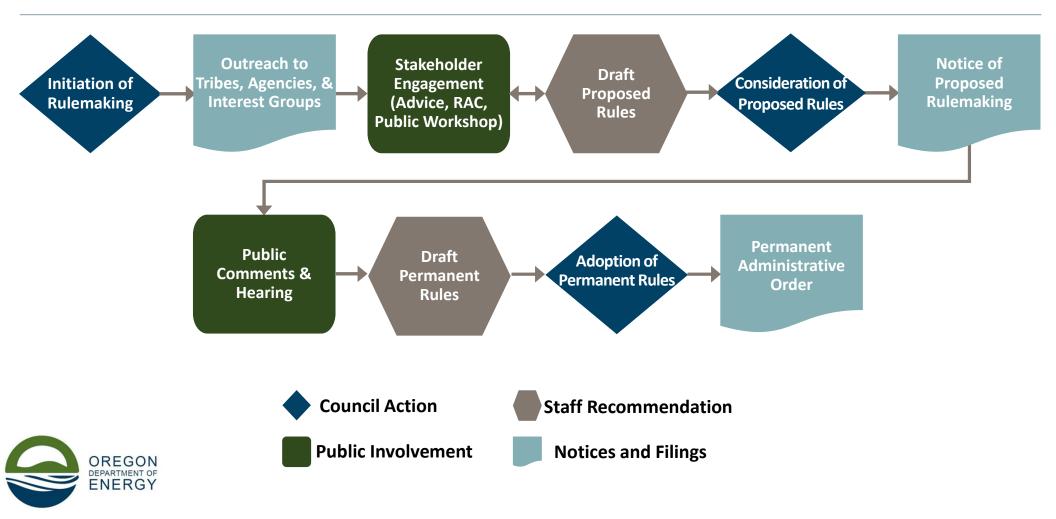


## Agenda Item Overview

- Overview of the Rulemaking Process
- Review of 2025 Rulemaking Activity
- Proposed 2026-2028 Rulemaking Schedule
- Public Comment
- Council Deliberation



## Overview of Rulemaking Process



## 2025 Rulemaking Activity

ID	Title	Status
R243	Amendment Rulemaking	Updated Rules Adopted
R212	Application Process Phase 2	Updated Rules Adopted
R251	Modernization	Notice Issued (Possible Reissue)
R185	Exemptions	Notice to be Issued, Pending Approval
R194	Communication w/Tribal Gov	Draft Rules to be Reviewed by Tribes
R222	Radioactive Material Transport Fee	RAC Meeting Now
R182	General Compliance	RAC Meeting Now
R252	Org Expertise & Financial and Retirement Assurance Standards	RAC Meeting Now



## Proposed New Projects for 2026

ID	Subject Matter	Consultation	Estimated Timeline
R261	Application Process Review – Phase 3 (No 2)	RAC	July 2026 – July 2027
R262	Application Process Review – Phase 3 (No 3)	RAC	October 2026 – October 2027
R205	Natural Hazards Mitigation	RAC	December 2026 – October 2027



### Application Process Review – Phase 3

PHASE 3 Rulemakings for Council Standards			
Standards Grouped by Proposed Rulemaking	<u>OAR</u>		
Organizational Expertise + Financial and Retirement Assurance (Under Review)	345-022-0010 + 345-022-0050		
Structural Standard + Soil Protection	345-022-0020 + 345-022-0022		
Protected Areas + Scenic Resources + Recreation	345-022-0040 + 345-022-0080 + 345-022-0100		
Fish and Wildlife Habitat + Threatened and Endangered Species	345-022-0060 + 345-022-0070		
Waste Minimization + Public Services + Land Use	345-022-0120 + 345-022-0110 + 345-022-0030		
Historic, Cultural and Archaeological Resources	345-022-0090		



### Natural Hazards Mitigation

This rulemaking project would evaluate whether and how the siting review process can support the goals of the Oregon Natural Hazard Mitigation Plan and implement natural hazard mitigation strategies.

Oregon recently updated its Natural Hazard Mitigation Plan in October of 2025.



## Proposed Projects for 2027

ID	Subject Matter	Consultation	Estimated Timeline
R216	Mandatory Conditions in Site Certificates	RAC	March 2027 – December 2027
R271	Application Process Review – Phase 3 (No 4)	RAC	May 2027 – May 2028
R272	Application Process Review – Phase 3 (No 5	RAC	August 2027 – August 2028



## Proposed Projects for 2028+

Project ID	Subject Matter	Consultation	Estimated Timeline
IK/XI	Application Process Review – Phase 3 (No 6)	RAC	January 2028 – January 2029



## Upcoming 5-Year Reviews

Project Name	Description	Due Date
Radioactive Materials Enforcement	Complete 5-year review of OAR 345-029-0503 to 345-029-0560	2/26/2026
Carbon Standards	Complete 5-year review of OAR 345-024-0503	7/25/2027
Wildfire Prevention and Risk Mitigation	Complete 5-year review of OAR 345-022-0115	7/25/2027



## 5 Year Review: 2020 Amendment of Site Certificates Rulemaking

- Whether the rule has had the intended effect;
- Whether the anticipated fiscal impact of the rule was underestimated or overestimated;
- Whether subsequent changes in the law require that the rule be repealed or amended;
- Whether there is continued need for the rule; and
- What impacts the rule has on small businesses.

## Public Comments on Rulemaking Schedule

### **PUBLIC COMMENT**



### How to Raise Your Hand in Webex:

#### **Webinar Participants**

The bottom right of the main window is a set of icons:

Click on "Participants"

The bottom right of the participant window is a hand icon, click on the hand:

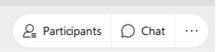
Clicking on it again will lower your hand.

### Phone Participants

Press \*3 on your telephone keypad to raise your hand.

Press \*3 again on your telephone keypad to lower your hand.





Participants

○ Chat

> Q&A

## Council Options – Rulemaking Schedule

## Option 1 - Recommended

Approve the proposed rulemaking schedule as presented with Phase 3
Prioritization

### **Option 2**

Approve the proposed rulemaking schedule with Phase 3
Prioritization and changes



## **Council Deliberation**



## Agenda Item C (Action Item)

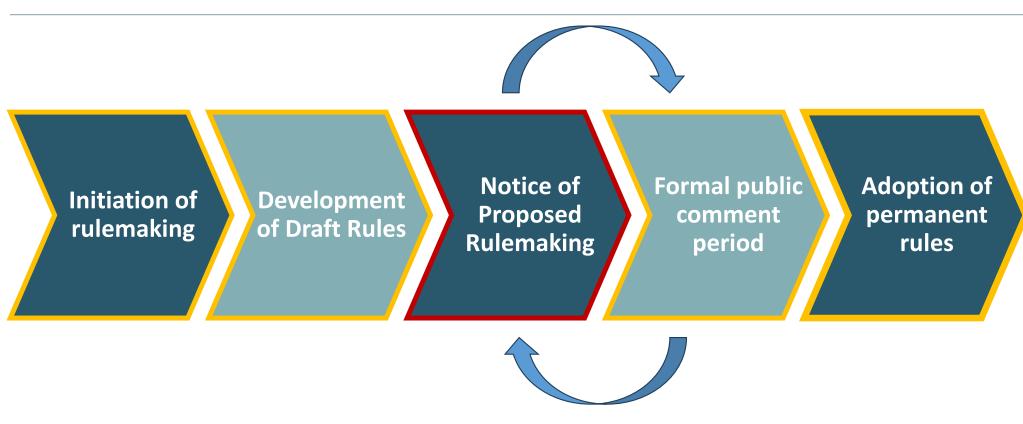
### **Modernization Rulemaking Consideration of Rules**

Thomas Jackman, Siting Policy Analyst and Rules Coordinator

**December 19, 2025** 



## Background - Rulemaking Process





### Modernization Rulemaking – Rule Overview

### **Minor Updates**

- Correcting outlining and reference errors
- A reversion of an inadvertent rule change
- Updating rule version references, e.g., "Applicant must follow other agency rules dated Jan 1, 2012."
- The removal of applicability provisions, given the passage of time



### Modernization Rulemaking

### **Modest Updates**

- Formalizing the process for providing the Department of War (DoW) notice of new energy facility applications
- The removal of the requirement that applicants and site certificate holders must print copies of all their various submissions by default, but still allowing for direction by the Department to do so



### Modernization Rulemaking

#### **More Significant Updates**

- Directing parties to submit any data used to produce maps or other geospatial data in an acceptable format as approved by the department
- The removal of preconstruction requirement of having all construction rights before any construction could occur for all types of facilities



### Modernization Rulemaking – Public Comments

#### **From Public**

- Kim Peacher, on behalf of Department of War:
  - Shared support for new provision on formalizing notice to DoW
- Diane Brandt, on behalf of Renewable Northwest:
  - RNW agrees with the proposed changes, while sharing some concerns about the proposed geospatial data requirement and desires more specifics to requirements and addressing confidentiality possibilities.
- Staff Response:
  - Handling of trade secrets will occur as directed by statute (ORS 192.345)
  - Staff will work with applicants to provide guidance on how to submit geospatial data. Staff is sympathetic to concerns, but technology changes too fast to try and make things too specific in rules.

## Modernization Rulemaking – Comments

#### **Direction From Council**

- Insert retroactivity component into rule language directed at removal of preconstruction requirement of having all construction rights before any construction could occur for all types of facilities
- Clarify how Council defines "construction rights"



## Modernization Rulemaking – New Notice?

File Permanent Rules or Reissue Notice

"[W]hen an agency decides to make substantial revisions to the noticed rules on topics that were not identified as relevant to the rulemaking process and topics that fundamentally alter the nature of the rules themselves, the agency must provide new notice and open another comment period to allow meaningful feedback from the public."

Columbia Riverkeeper v. Oregon Fish & Wildlife Commission, 345 Or. App. 213 (2025)



## Council Options

## Option 1 (Staff Recommendation)

Direct Staff to Reissue Notice with Proposed Rules

### **Option 2**

Direct Staff to File Permanent Rules as Drafted

### **Option 3**

Direct Staff to Further Modify Rules



## **Council Deliberation**



## BREAK



## Agenda Item D (Information Item)

### **PUBLIC COMMENT**

**Time Limit** – 7 Minutes per commentor



### How to Raise Your Hand in Webex:

#### **Webinar Participants**

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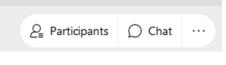
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Press \*3 again on your telephone keypad to lower your hand.





Participants

○ Chat

> Q&A

# Agenda Item E (Action Item)

## **Annual Financial Assurance Evaluation**

Sisily Fleming, Fiscal Analyst, ODOE

**December 19, 2025** 



## Annual Financial Assurance Evaluation



### **ENERGY FACILITY SITING COUNCIL**

2026 Proposed Financial Institutions	S	&P	Mod	ody's	Fit	tch	АМ	Best
Letter of Credit	Rating	Outlook	Rating	Outlook	Rating	Outlook	Rating	Outlook
Banco Santander S.A. (New York Branch)	A+	Stable	A1	Stable	Α	Stable		
Bank of America N.A.	A+	Stable	Aa2	Stable	AA	Stable		
Bank of Nova Scotia (NY Agency)	A+	Stable	Aa2	Stable	AA-	Stable		
Bank of the West (Bank of Montreal)	A+	Stable	Aa2	Stable	AA-	Stable		
Barclay's Bank, PLC (NY Branch)			A1	Stable	A+	Stable		
Citibank, N.A.	A+	Stable	Aa3	Stable	A+	Stable		
CoBank	AA-	Stable			A+	Stable		
Deutsche Bank	А	Stable	A1	Stable	A-	Stable		
Helaba (NY Branch of Landesbank Hessen-Thueringen GZ)			Aa2	Stable	A+	Stable		
JP Morgan/Chase Bank, N.A.	AA-	Stable	Aa1	Stable	AAA	Stable		
Mizuho Bank	A	Stable	A1	Stable	Α	Stable		
MUFG Bank, Ltd. (Union Bank)	Α	Stable	A1	Stable	Α	Stable		
Natixis (NY Branch)	A+	Stable	A1	Stable	Α	Stable		
Royal Bank of Canada (NY Branch)	AA-	Stable	Aa1	Stable	AA-	Stable		
Royal Bank of Scotland International Ltd	Α	Stable	Aa3	Stable	AA-	Stable		
US Bank, N.A.	A+	Stable	A2	Stable	A+	Stable		
Wells Fargo Bank, N.A.	A+	Stable	Aa2	Stable	AA-	Stable		
Sumitomo Mitsui Banking Corporation (SMBC, NY Branch)	Α	Stable	A1	Stable	Α	Stable		
Bond	Rating	Outlook	Rating	Outlook	Rating	Outlook	Rating	Outlook
Arch Insurance Company			A1	Stable	AA-	Stable	A+	Stable
CNA Financial Corporation			Baa2	Positive	A-	Stable	a-	Stable
Continental Casualty Company			A2	Positive	A+	Stable	aa-	Stable
Federal Insurance Co			Aa2	Stable	AA	Stable	aa+	Stable
Fidelity & Deposit Co of MD							aa	Stable
Hanover Insurance Group			A2	Stable	AAA	Stable	bbb+	Stable
Liberty Mutual Insurance Company			A2	Stable			Α	Stable
SAFECO Insurance Co of America			A2	Stable			a	Stable
Travelers Casualty & Surety Co of America			Aa2	Stable	AA	Stable	A++	Stable
Westchester Fire Insurance Co			Aa2	Stable	AA	Stable	A++	Stable



## Annual Financial Assurance Evaluation

### Letter of Credit and Bond Templates

- Council last approved templates in December 2024 for use in 20245
- No changes proposed from previously approved templates



## Council Options

# Option 1 - Recommended

Approve the financial institutions and templates as presented and recommended

## Option 2

Approve the financial institutions and templates as presented and recommended, with specified changes



# **Council Deliberation**



# Agenda Item F (Information Item)

## **Habitat Mitigation Banking**

Greg Jackle, ODFW's Sage Grouse Mitigation Coordinator, Nathan Ayers, Terra West Consulting

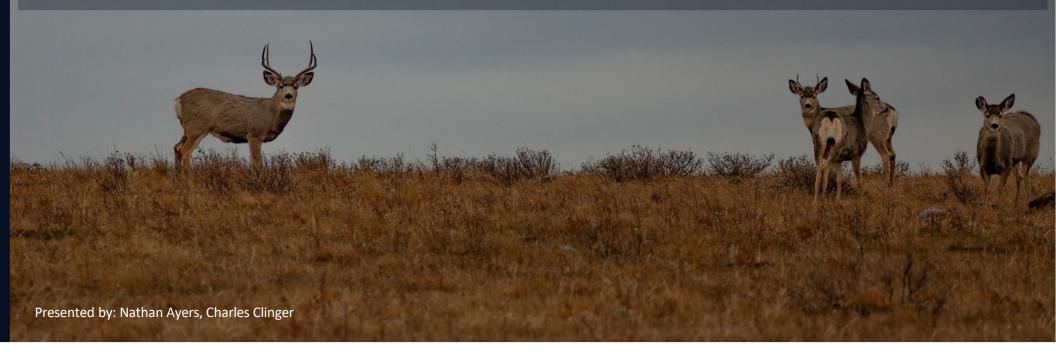
**December 19, 2025** 





Why Conservation Banking Works in Oregon

December 19, 2025



### Who We Are



Projects in Oregon, Idaho and Wyoming



Landscape-Scale Mitigation - Approximately 150,000 acres



Work Closely with State and Federal Wildlife Agencies, Energy Developers, Land Developers, Land Trusts

With a proven track record of developing and managing successful mitigation projects, we help clients strategically offset environmental impacts while staying on time and in compliance.

## The Problem: Why Mitigation Needed a New Model

 The Failure of Permittee-Responsible Mitigation (PRM)

For decades, most mitigation in the U.S. was handled through Permittee-Responsible Mitigation—developers doing their own habitat work after impacts occurred.

Lack of interaction and oversight for PRM projects

PRM projects were often done with little interaction and oversight between developers and regulatory agencies, leading to inconsistent outcomes.

Developers lacked expertise in long-term habitat management

Project development and long-term habitat management are two very different specialties, and it's challenging for any single project proponent to take on both. Developers often focused on building their projects, while long-term ecological stewardship was a separate discipline.

 Underestimated biological complexity, cost, and timelines for PRM

PRM projects often underestimated the biological complexity, cost, and timelines required to achieve the intended ecological outcomes.

 Difficulty in long-term monitoring and oversight for PRM

Long-term monitoring of PRM sites proved difficult for regulatory agencies due to the significant workload and limited staffing available to oversee so many dispersed, one-off mitigation projects.

 Early studies found that a large majority of permittee-led mitigation projects did not fully meet permit requirements or replace lost ecological function—with some syntheses suggesting only ~20% met equivalency tests

# What Conservation Banking Solved

A System Designed Around Certainty, Durability, and Accountability

## Permanence through perpetual conservation easements

Conservation banks are backed by perpetual, legally enforceable conservation easements that permanently prohibit incompatible land uses and safeguard habitat in perpetuity.

#### • Landscape-scale habitat protection

Conservation banks are established at large, landscape-scale sites, which are far more effective and resilient than one-off project locations.

#### Upfront habitat enhancement

Conservation banks complete habitat uplift and enhancement work upfront, often years before a development project breaks ground, ensuring ecological gains are already in place before credits are sold.

#### Robust financial assurances

Conservation banks are backed by a suite of financial assurances, including interim management securities, fully funded endowment accounts, and independent third-party trustees, ensuring reliable, long-term financing to support stewardship and management obligations forever.

#### • Rigorous oversight and compliance

Conservation banks undergo rigorous agency review and approval, followed by ongoing monitoring and compliance reports, ensuring that habitat performance, management actions, and conservation outcomes are continuously verified throughout the life of the bank.

## Why Agencies Benefit



#### Saves administrative burden

Agencies move from managing dozens of individual PRM plans to a streamlined, pre-vetted system of a conservation bank



## Ensures consistent ecological outcomes

Conservation banks undergo
rigorous review and approval, with
ongoing monitoring and
compliance reporting to verify
habitat performance and
management



#### Transfers long-term liability

By purchasing credits, developers transfers the mitigation responsibility for long-term liability and stewardship to the conservation bank, providing a clear, predictable path to compliance



#### Reduces compliance risks

Conservation banks are backed by robust financial assurances, including endowments and third-party trustees, ensuring reliable, long-term funding for habitat management

By relying on conservation banks, agencies benefit from a system that is efficient, certain, and compliant, saving time and resources while ensuring consistent ecological outcomes at a landscape scale.

## Why Developers Benefit



Known timeline

Developers get a predictable timeline for permitting and mitigation completion.



Fixed mitigation cost

Developers can budget a fixed, upfront cost for mitigation credits instead of open-ended expenses.



Turnkey solution

Developers can simply purchase mitigation credits rather than developing and managing their own mitigation sites.

Developers typically don't want to become habitat managers. Conservation banking gives them a predictable, efficient, and compliant pathway to permitting that aligns with their core business priorities.

## Why Developers Benefit

Developers typically don't want to become habitat managers. Conservation banking gives them a predictable, efficient, and compliant pathway to permitting that aligns with their core business priorities



Known timeline

Developers get a predictable timeline for permitting and mitigation completion.



Fixed mitigation cost

Developers can budget a fixed, upfront cost for mitigation credits instead of open-ended expenses.



Turnkey solution

Developers can simply purchase mitigation credits rather than developing and managing their own mitigation sites.

Instead of spending years trying to develop their own mitigation sites—which are expensive, slow, uncertain, and outside to core business—they can purchase credits in a bank that has already done the hard work.

## What a Conservation Bank Actually Includes

#### Perpetual Conservation Easement

Ensures the land can never be developed or degraded.

#### Approved Long-Term Site-Specific Management Plan

Details how the habitat will be managed, monitored, and stewarded forever.

#### Habitat Uplift & Enhancement Actions

Proactive restoration work completed during bank development.

#### • Credit-Debit Quantification System

Agency developed, scientifically founded methodology defining how credits and debits are generated, released, offset, and retired.

#### Interim Management Security

Up-front financial security that guarantees early management work is completed successfully and on schedule.

#### • Long-term Endowment Fund

A permanently invested endowment generates the annual revenue needed to support the bank's ongoing management and conservation commitments in perpetuity.

#### Mineral Remoteness Evaluation

Ensures no subsurface rights or mineral development can undermine the easement.

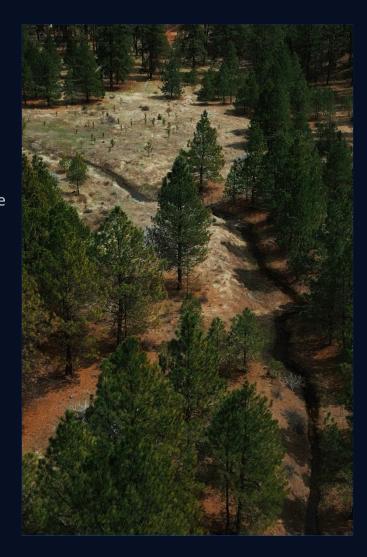
#### • Full Suite of Baseline Documentation

Biological assessments, vegetation maps, wildlife surveys, mineral reports, site photos, GIS-based habitat models, and more—everything needed to demonstrate suitability to agencies.

## **Conservation Banking in Oregon**

TerraWest, a leading environmental consulting firm, has been at the forefront of bringing conservation banking solutions to Oregon. By leveraging their expertise in habitat restoration and mitigation, TerraWest has helped unlock development opportunities while delivering measurable ecological benefits across the state.

- Northern Great Basin Conservation Bank
- Central Oregon Conservation Bank
- Western Great Basin Conservation Bank
- West Ochoco Conservation Bank
- Columbia Basin Conservation Bank



# **Supporting Oregon's Energy and Infrastructure Priorities**

Renewable Energy Capacity Expansion

Habitat Conservation Acreage Preserved

**Permitting Timelines Reduced** 

**Ecological Outcomes Achieved** 

## **TerraWest's Conservation Banking Partners**















In conclusion, TerraWest Consulting provides conservation banking solutions with a proven, agency-vetted approach to supporting Oregon's clean energy, infrastructure, and habitat conservation goals. By offering certainty, durability, and efficiency, these solutions help unlock development while delivering measurable ecological outcomes. TerraWest remains committed to working closely with state agencies and industry partners to ensure reliable, science-driven mitigation options that benefit both development and conservation priorities.

## WORKING LUNCH BREAK



# Agenda Item G (Action Item)

## **Exemption Rulemaking – Notice of Proposed Rulemaking**

Tom Jackman, Siting Policy Analyst & Rules Coordinator

**December 19, 2025** 



# Background - Rulemaking Process





### **Understanding Exemptions**

- Oregon statute (ORS 469.320) states that certain energy facilities do not need to obtain a site certificate from EFSC to operate
- These facilities still fall under Council jurisdiction
- Exempt facilities still need to meet other regulatory approvals, e.g., DEQ



### **Understanding Exemptions**

#### Examples include:

- Increase of an existing facility's output which was operating prior to 1993 if the site is not being enlarged and the increase is not more than 200 million Btu per hour
- Construction or expansion of any interstate natural gas pipeline or associated underground natural gas storage facility authorized by FERC
- An energy facility, except coal and nuclear power plants, if the energy facility sequentially produces electrical energy and useful thermal energy from the same fuel source (AKA a cogeneration plant) AND meets certain efficiency metrics



# Exemption Rulemaking – Proposed Rules

- Clarify that the Council may impose conditions on an exemption
- Implement monitoring and reporting requirements for exempt facilities
- Formalize the process for loss of an exemption
- Increase efficiency values as appropriate to qualify for high-efficiency cogeneration plant exemption



### **Conditions and Monitoring**

- The proposed rules explain the process for Council adding conditions to an exemption approval
- The proposed rules also include an annual reporting requirement to ensure that conditions are being met
- The conditions and monitoring work to ensure that facilities do not transition to a state where they no longer qualify for an exemption



### **Loss of Exemption**

- Current rules do not adequately explain the process for loss of an exemption
- Proposed rules explain what happens, e.g., review by Council and possible restrictions once it is determined that a facility no longer meets qualifications allowing for an exemption



#### **Efficiency Ratings**

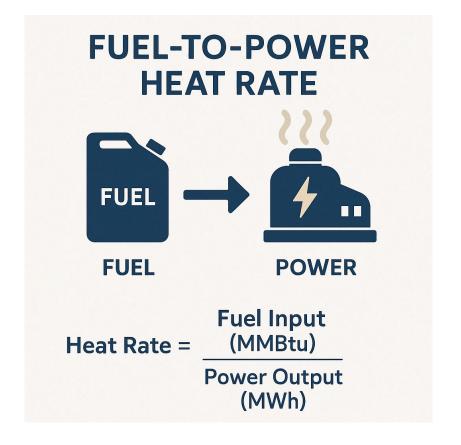
ORS 469.320(2)(c)(B) states that the Council "shall ensure that the **fuel chargeable to power heat rate value** for facilities [qualifying under the high efficiency cogeneration exemption] remains **significantly lower than** the fuel chargeable to power heat rate value for the **best available, commercially viable thermal power plant technology at the time of the revision**."



#### **Fuel to Power Heat Rate**

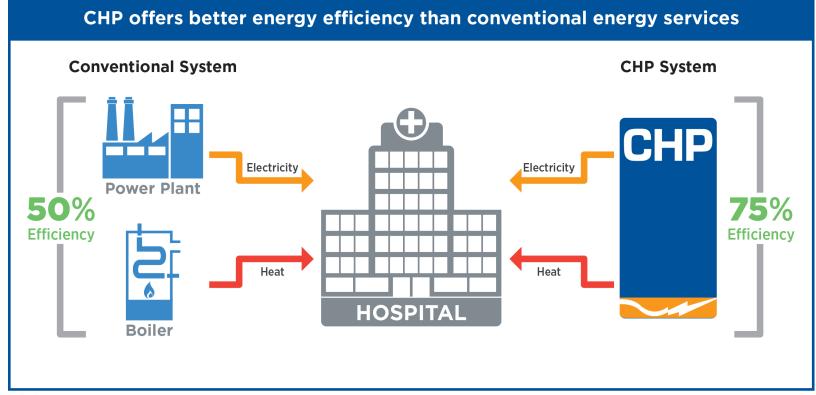
From the U.S. Energy Information Association:

Heat rate is one measure of the efficiency of electrical generators/power plants that convert a fuel into heat and into electricity. The heat rate is the amount of energy used by an electrical generator/power plant to generate one kilowatthour (kWh) of electricity.





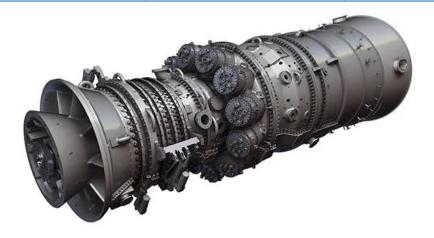
**Thermal Power Plant VS Cogeneration (AKA CHP)** 





### **Best Available Commercially Viable Thermal Plant**

Year	Heat rate (Btu/kWh)	Approx. Equivalent Electric Efficiency
Average of Units Built 2006-2015	7,029	48.5%
Best Available in 2015	6,600	51.7%
Best Available in 2025	5,331	64%





## **Recommended New Efficiency Values**

Facility Size	2009 Rule	Approx. Equivalent Electric Efficiency	Proposed 2025 Update	Approx. Equivalent Electric Efficiency
< 50 MW	6,000 Btu/kWh	~57%	5,000 Btu/kWh	~68%
≥ 50 MW	5,500 Btu/kWh	~62%	4,800 Btu/kWh	~71%



# Council Options

# Option 1 - Recommended

Approve draft rules for NOPR filing

### **Option 2**

Approve draft rules for NOPR filing with changes

## **Option 3**

Deny initiation of formal rulemaking



# **Council Deliberation**



# Agenda Item H (Action Item)

### **2026 Annual Election of officers**

**Todd Cornett, Assistant Director for Siting/Council Secretary** 

December 19, 2025



# OAR 345-011-0010(1)

- The Council shall annually elect a chair and a vice-chair.
- The chair and vice-chair shall serve for one year or until their successors are elected.
- A member may serve successive full terms as chair or vice-chair.



# Council Options

## **Option 1**

Elect Chair and Vice-Chair in a Single Motion

## **Option 2**

Elect Chair and Vice-Chair in Separate Motions



# **Council Deliberation**



# ADJOURN







