
Exemption Rulemaking Comments

From Constance Lee <constanceannettelee@gmail.com>
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To EFSC Rulemaking * ODOE <EFSC.rulemaking@energy.oregon.gov>

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To: Energy Facility Siting Council and Oregon Department of Energy

From:
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Dear Members of the Energy Facility Siting Council and Oregon Department of Energy Staff,

I am submitting this consolidated public comment regarding the proposed amendments to OAR 345-001-0010 and OAR 345-015-0350 through 345-015-0380 governing exemptions from Energy Facility Siting Council (EFSC) site certificate requirements.

While these rule changes are described as “clarifying” and “procedural,” they may in practice reduce meaningful public participation, weaken local accountability, and favor expedited development pathways for large-scale energy projects, particularly solar and battery energy storage systems. These impacts fall most heavily on small rural communities, such as Juniper Flat near Maupin, where residents live with the long-term land use, fire risk, environmental, visual, and community impacts of industrial energy development.

Limitation of Public Input and Community Voice

Under the proposed amendments, exemption requests are reviewed through an administrative process that does not provide contested case hearings, intervenor status, discovery, or guaranteed public comment opportunities. For rural residents, this effectively removes the primary mechanisms by which they can influence decisions that permanently alter their surroundings, livelihoods, and potentially their safety.

Unlike the full EFSC site certificate process, exemptions do not require direct notice to nearby landowners, formal public hearings, or comprehensive cumulative impact analysis. These procedural protections are often the only realistic means for rural communities to participate in energy siting decisions.

Meeting Oregon's renewable energy

Conditional Exemptions Without Public Accountability

The proposed rules explicitly authorize EFSC to grant exemptions with conditions. However, there is no requirement for public notice, comment, or community involvement in the development or approval of those conditions. Conditions negotiated solely between applicants and EFSC staff cannot substitute for public accountability, particularly where community

concerns such as cumulative acreage, wildfire risk, agricultural land loss, visual impacts, and cultural impacts are at issue.

Developers have a clear incentive to minimize or frame impacts in ways that reduce cost and delay. Community members, by contrast, possess firsthand knowledge of local conditions and risks, yet the proposed rules do not require that knowledge to be considered.

Oregon's Clean Energy Targets (HB 2021) require large retail electricity providers to reach **100% clean electricity by 2040** (with interim 80% by 2030 and 90% by 2035). To meet these objectives hundreds of thousands of rural acreage will be needed to convert to wind and solar energy. Excluding rural voices that are going to be affected by this industrial growth is undemocratic.

Inadequate Oversight After Approval

The annual compliance reporting requirement places responsibility on project owners to self-report compliance. The rules provide no public comment opportunity, independent verification requirement, or clear mechanism for community-initiated review. Rural residents who live among these facilities will have little recourse if a developer fails to comply with exemption conditions, even as impacts persist year after year.

Similarly, the loss-of-exemption provisions are technically inaccessible to most communities. Impacts to residents do not themselves trigger review unless they can be reframed as violations of exemption criteria or conditions, placing an unrealistic evidentiary burden on communities after harm has already occurred.

Accelerated Timelines Favor Developers

The proposed timelines for exemption review and Council action compress the window for public awareness and response. Rural communities often rely on volunteer effort and limited resources, making it difficult to organize, consult experts, or submit informed input within these short timeframes. Administrative efficiency for developers should not come at the expense of procedural fairness for affected residents.

Conclusion and Requested Changes

I respectfully request that EFSC revise the proposed rules to:

1. Require public notice and public comment for all exemption requests and exemption conditions;
2. Provide formal opportunities for community input prior to exemption approval;
3. Establish public review and response mechanisms for annual compliance filings;
4. Establish strict and swift fines and penalties for non-compliances;
5. Require consideration of cumulative impacts and local land use conflicts in exemption determinations; and
6. Preserve a meaningful role for communities in decisions that permanently alter rural landscapes.

Energy development should not advance by narrowing public participation or shifting long-term risk onto rural communities. Transparent and inclusive processes are essential to maintaining public trust and ensuring that Oregon's energy transition does not come at the expense of local voices.

Thank you for the opportunity to submit these comments and for your consideration.

Respectfully submitted,

Constance Lee
Maupin, Oregon