2011 Legislative Session Summary

Energy Bills

HB 2960 Cool Schools
Effective Date: June 24, 2011
Last Action: June 24, 2011 Governor Signed
Oregon Laws 2011 Chapter 467

HB 2960 establishes the Clean Energy Deployment Program and the Clean Energy Deployment Fund to provide grants and loans to support energy efficiency or clean energy projects in Oregon; directs the Oregon Department of Energy (ODOE) to establish criteria for qualifications of projects and defines the types of projects that can be financed through the program; directs ODOE to establish and administer a four-year high performance schools pilot program within the Clean Energy Deployment Program; renames the Loan Offset Grant Funds to the Jobs, Energy and Schools Fund; and, directs the Public Utility Commission to report on feasibility, cost effectiveness, and potential ratepayer costs associated with power purchase agreements by December 1, 2012. The bill changes the existing distribution of SB 1149 funds from educational service districts to school districts.

In January 2011 and at the Governor’s direction, ODOE allocated $2 million in American Recovery and Reinvestment Act (ARRA) grant funds toward completion of energy audits in schools outside the SB 1149 (Public Purpose Funds) service areas. As a follow-up to this effort, ODOE has been working with the Governor’s Office to develop a program that would offer low cost financing, technical assistance and project planning support to school districts who are interested in making energy efficiency investments that would generate savings at a level sufficient to repay the cost of financing. This effort is envisioned to cover four years with a different phase being deployed each spring/summer.

HB 2622 Boardman Biomass Conversion
Effective Date: January 1, 2012
Last Action: June 2, 2011 Governor Signed
Oregon Laws 2011 Chapter 225

HB 2622 revises Oregon’s Renewable Portfolio Standard (RPS) to include electricity generated from a renewable energy source, provided the generating facility previously burned coal as fuel source, ceased to do so, and converts to renewable energy source after the effective date of measure.
HB 3606 Business Energy Tax Credit Legislative fix
Effective Date: September 28, 2011
Last Action: August 2, 2011 Governor Signed
Oregon Laws 2011 Chapter 693

HB 3606 requires that federal grants obtained by a facility applying for a BETC reduce the total costs rather than certified costs and changes the timing of when a tax credit can be claimed for large renewable projects. For example, for large renewable projects with costs over $10 M, the five-year period starts the tax year after the department has received a completed application or when the transferee purchases the credit, whichever is later. HB 3606 also considers an application complete without the identification of a transferee. This provision applies to final certificates issued on or after January 1, 2010.

HB 3672 Tax Credit Extension Bill
Effective Date: September 28, 2011
Last Action: August 5, 2011 Governor Signed
Oregon Laws 2011 Chapter 730

HB 3672 amends, sunsets and creates a number of tax credit programs administered by the Oregon Department of Energy. The bill is effective on September 28, 2011 and most changes take effect at that time, although some key changes are retroactive. Changes to the Residential Energy Tax Credit (RETC) and the Biomass Producer and Collector Tax Credit (BPC) are effective beginning January 1, 2012.

- **Business Energy Tax Credit (BETC)—Sunsets (Section 1)** HB 3672 sunsets the BETC program effective July 1, 2011.
- **Renewable Energy Development—New provisions (Sections 22-33a)** This program allows the auction of tax credits, taxpayer contributions or direct appropriation by the legislature, to provide funds to award grants to renewable energy production systems. The Oregon Department of Energy may establish criteria and standards to choose between project applicants. A renewable energy production system means a system that uses biomass, solar, geothermal, hydroelectric, wind, landfill gas, biogas or wave, tidal or ocean thermal energy technology to produce energy.
- **Energy Conservation Projects—New provisions (Sections 34-51)** This program allows tax credits for any capital investment for which the first year energy savings yields a simple payback period of greater than three years with listed exceptions. Cogeneration facilities are eligible beginning January 1, 2013. The Oregon Department of Energy may establish criteria and standards to choose between project applicants. Total tax credits for the program are limited to $28 million per biennium, and individual projects may receive up to 35 percent of costs or $3.5 million in tax credits to be taken over five years.
- **Transportation Projects—New Provisions (Sections 52-66)** This program allows tax credits for a public or nonprofit entity that provides transit services to members of the public and that receives state or federal funding for those services, or an alternative fuel vehicle infrastructure project. Total tax credits for the program are limited to $20 million per biennium; the credit may be taken in one year, or carried forward up to five succeeding years.
- **Residential Energy Tax Credit (RETC)—Amends existing program (Sections 67-77)** The measure extends the RETC program to January 1, 2018, except for the alternative fuel vehicle credit (including electric vehicles) which retains its existing sunset of January 1, 2012. Amendments to the program are effective beginning January 1, 2012. HB 3672 eliminates some appliances such
as dishwashers, clothes washers, refrigerators, air conditioners and boilers. The measure caps tax credits for third party alternative energy device installations.

- **Biomass Producer or Collector Tax Credit (BPC)—Amends existing program (Sections 2-3)** HB 3672 extends the BPC program to January 1, 2018. Changes to the program are effective January 1, 2012. The credit is reduced for woody biomass and biomass from agricultural crops by changing the tax credit from $10 per *green ton* to $10 per *bone dry ton*. Yard debris and municipally generated food waste are now excluded from the program.

For more detailed information on the impacts of HB 3672, go to [http://www.oregon.gov/ENERGY/CONS/docs/HB3672summary.pdf](http://www.oregon.gov/ENERGY/CONS/docs/HB3672summary.pdf)

**HB 2523 Transfers Renewable Energy Resource Equipment Manufacturing BETC to Business Oregon**

Effective Date: September 28, 2011  
Last Action: June 23, 2011 Governor Signed  
Oregon Laws 2011 Chapter 474

HB 2523 transfers administration of the Renewable Energy Resource Equipment Manufacturing Tax Credit from the Oregon Department of Energy to the Oregon Business Development Department (OBDD). The measure maintains the existing sunset date of January 1, 2014 as well as maintains the existing limits on pre-certification credits that may be issued; $200 million in 2011-2013 biennium and $50 million for the six months from July 2013 to December 2013. HB 2523 expands standards related to job creation for certified projects.

**SB 862 State Forester Biomass Contracts**

Effective Date: January 1, 2012  
Last Action: June 7, 2011 Governor Signed  
Oregon Laws 2011 Chapter 247

Senate Bill 862 makes important updates to state forestry laws and accomplishes a number of objectives. This bill highlights the Department of Forestry’s ability to issue contracts for woody biomass removal and makes it explicit that this activity is a forest practice regulated by the Forest Practices Act. The bill also clarifies the definition of woody biomass. Senate Bill 862 directs the State Forester to conduct an assessment of the types of woody biomass available.

**HB 2700 Linear Removal-Fill Permitting**

Effective Date: June 16, 2011  
Last Action: June 16, 2011 Governor Signed  
Oregon Laws 2011 Chapter 370

HB 2700 establishes that when a permit is issued to a person that proposes removal or fill activities for the construction or maintenance of a linear facility, and they are not the landowner or acting on behalf of the landowner, they may not conduct such activities on that property until they obtain one of the following: the landowner’s consent, the right, title, or interest with respect to the property that is sufficient to undertake the removal or fill activity; or a court order or judgment that authorizes the use of the property. The measure requires the Department of State Lands, when the permit application
process is deemed complete, to notify all landowners whose land is identified in the application, and landowners whose land is adjacent to the property of a landowner whose land is identified in the permit application.

HB 3538 Carbon Dioxide Equivalents
Effective Date: June 9, 2011
Last Action: June 9, 2011 Governor Signed
Oregon Laws 2011 Chapter 298

HB 3538 expands the types of greenhouse gases that are eligible for emission reduction projects to help meet the existing carbon dioxide standard for new energy facilities. Carbon dioxide, methane, and nitrous oxide are now eligible gases for these projects. The bill provides an “exchange rate” for methane and nitrous oxide and establishes that, unless set or modified by rule, the global warming potential of methane is 23 times that of carbon dioxide, and the global warming potential of nitrous oxide is 296 times that of carbon dioxide.

HB 2840 Green Jobs Growth Initiative Expansion
Effective Date: January 1, 2012
Last Action: June 21, 2011 Governor Signed
Oregon Laws 2011 Chapter 452

House Bill 2840 changes the term “timber” to “forest products” and expands the definition to include businesses that grow, manage, harvest, transport, or process wood and paper products. House Bill 2840 instructs the Oregon Workforce Investment Board (OWIB) to analyze the key growth factors for green jobs in the forest products industry and the educational and skill standards required for these green occupations. Additionally, the measure requires the Board to use this analysis, in consultation with the Governor’s education and workforce policy advisor, to identify those forest industries that create high-demand green forest products.

HB 3170 Tax Credit for Diesel Engines
Effective Date: September 28, 2011
Last Action: August 2, 2011 Governor Signed
Oregon Laws 2011 Chapter 674

HB 3170 moves the sunset date for the tax credit for new diesel engines forward from December 31, 2013 to July 1, 2011.

SB 57 Business Development Energy Bonds
Effective Date: January 1, 2012
Last Action: May 16, 2011 Governor Signed
Oregon Laws 2011 Chapter 27

SB 57 authorizes the Oregon Business Development Commission to use revenue bonds to finance economic development projects that provide for generation, transmission, sale or distribution of electrical energy.

Industrial Development Bonds are tax-exempt conduit bonds issued by the state to help Oregon companies by providing long-term financing for land, buildings and equipment for economic
development purposes. Current statute (ORS 285B.323) makes facilities that are designed primarily for the generation, transmission, sale or distribution of electrical energy ineligible for Industrial Development Bonds. This language has restricted Oregon Business Development Department’s (OBDD) ability to issue Industrial Development Bonds to finance economic development projects. Removal of this language should allow OBDD to expand its support of clean energy and technology projects.

**HJM 28 Hanford National Disposal Site**

Last Action: June 28, 2011 Filed with the Secretary of State.

HJM 28 urges United States Department of Energy to remove Hanford Nuclear Reservation from the list of candidate sites for national permanent disposal of radioactive waste.

**HB 2563 Property Tax Exemption for Energy Systems**

Effective Date: September 28, 2011
Last Action: August 2, 2011 Governor Signed
Oregon Laws 2011 Chapter 656

Amongst other property tax changes, HB 2563 extends the sunset on property tax exemptions for solar, geothermal, wind, water, fuel cell, or methane gas energy systems from July 1, 2012 to July 1, 2018. The bill exempts actual alternative energy system as opposed to only the property to which it is attached and provides that portions of exempt property leased for alternative energy system installation do not become taxable as a result of this installation.

**HB 3571 Ownership of RECs**

Effective Date: June 7, 2011
Last Action: June 7, 2011 Governor Signed
Oregon Laws 2011 Chapter 248

HB 3571 specifies that the owner of a qualifying facility is the owner of a renewable energy certificate (REC) created pursuant to ORS 469A.130 for generation during the term of the contract where the contract was executed pursuant to 16 U.S.C. 2601 et. seq. and was in effect prior to November 20, 2005. The provisions apply only to qualifying facilities located in Oregon, certified as qualifying small power production facilities or qualifying cogeneration facilities under 16 U.S.C. 796, and producing electricity priced under ORS 758.525. Under ORS 469A.130, the Oregon Department of Energy is required to establish a system of renewable energy certificates that can be used by an electric utility or electricity service supplier to establish compliance with the State’s Renewable Portfolio Standard. The Department codified this system in Oregon Administrative Rules, Part 330, Division 150. These rules do not currently address ownership of renewable energy certificates for facilities built prior to 2005. House Bill 3571 establishes ownership rules for those certificates.

**HB 3516 Solar PV Zoning**

Effective Date: January 1, 2012
Last Action: June 21, 2011 Governor Signed
Oregon Laws 2011 Chapter 464

HB 3516 establishes that installation and use of solar photovoltaic energy systems or solar thermal energy systems on residential or commercial buildings is an outright permitted use in any zone where such structures are an allowed use. HB 3516 establishes that approval of permit is a ministerial function.
if the installation can be accomplished without increasing the footprint of the structure or the peak roof height and that the plane of the system is parallel to the slope of the roof. HB 3516 prohibits cities and counties from collecting land use permit application fees or requiring extensive surveys or site evaluations in connection with such solar energy system permit applications. The bill exempts from provisions related to ministerial function and application fees, surveys and evaluations of those systems located on residential or commercial structure that is federally or locally designated as historic building, landmark or conservation landmarks; located in historic districts; or located in an area designated as significant scenic resource unless the material used is designated anti-reflective or 11 percent or less reflective.

**HB 2827 Diesel Fuel Additives**
Effective Date: March 1, 2011
Last Action: June 7, 2011 Governor Signed
Oregon Laws 2011 Chapter 243

Under current law (ORS 646.922), the sale of biodiesel containing additives to prevent congealing or gelling is permissible only until March 1, 2011. House Bill 2827 would remove the sunset on this provision of law and permits, between October 1 and February 28, the sale of biodiesel containing additives to prevent congealing or gelling.

The composition and cold flow properties of diesel fuels can vary. These characteristics are influenced by a number of factors, including the crude oil source and how it’s refined and blended. Similarly, the cold flow properties of B20 or higher biodiesel blends can vary based on the feedstock from which they are made.

**HB 2748 Wave Project Exemption**
Effective Date: May 27, 2011
Last Action: May 27, 2011 Governor Signed
Oregon Laws 2011 Chapter 152

HB 2748 extends wave energy exemptions adopted by SB 195 (2009) through December 31, 2021. The bill maintains provisions in existing statutes which establishes minimum standards relating to the development of hydroelectric energy power. The Department of Energy is party to a provision requiring an agreement between wave energy projects and seven state agencies to generally lessen or eliminate the impact of the project on the environment, fish and wildlife resources and commercial fishing and recreation.

**Administrative Bills**

**HB 2020 Supervisor-Employee ratio**
Effective Date: July 6, 2011
Last Action: July 6, 2011 Governor Signed
Oregon Laws 2011 Chapter 603

HB 2020 directs state agencies to report to the Joint Committee on Ways and Means (JWM) the ratio of employees to supervisory employees, ratio of managerial employees, and number of positions for
managerial employees who do not act in a supervisory capacity. The bill directs the JWM to develop a plan for each agency with over 100 employees to attain a ratio of 11 to 1 of employees to supervisory or managerial employees who supervise.

ODOE’s staffing level is currently above the 100 FTE, so the bill would apply to ODOE. The bill does not identify the actions that might be taken to arrive at the target of a 1/11 management to staff ratio or the process for granting an exception, other than to indicate that the JWM may determine that it is not “efficient for a state agency to attain the ratio.”

**HB 2061 Electronic Records**
Effective Date: January 1, 2012
Last Action: May 16, 2011 Governor Signed
Oregon Laws 2011 Chapter 39

HB 2061 permits state agencies to create, convert, and retain, electronic records of transactions without the consent of the customer, as long as electronic records are used and relied upon during the normal course of ordinary agency operations. The Oregon Department of Energy currently uses electronic records and passage of this bill will not change the way in which we conduct our work.

**HB 2244 Public Records**
Effective Date: (emergency)
Last Action: August 2, 2011 Governor Signed
Oregon Laws 2011 Chapter 645

HB 2244 modifies the public records law so that the records to be retained change from those concerning the “conduct of the public’s business” to “activity, transaction or function of a public body” and adds “records necessary to satisfy the fiscal, legal, administrative or historical policies, requirements or needs of the public body.” A record is any information in any form. The bill requires state agencies to have a written policy for the proposed modifications to public records and ensure that they are being maintained and managed consistently within the agency from creation to final disposition, as well as require agencies to submit policies to the State Archivist for approval before they are effective.

**HB 2247 Public Audit disclosure**
Effective Date: January 1, 2012
Last Action: June 9, 2011 Governor Signed
Oregon Laws 2011 Chapter 285

HB 2247 adds language to statute that clearly states when public records are exempt from disclosure under ORS192.410-192.505. This bill ensures that draft audit reports would not be available for public disclosure until after the final audit report is completed, or the audit is abandoned.

**HB 2321 Notice by Electronic Mail**
Effective Date: January 1, 2012
Last Action: June 7, 2011 Governor Signed
Oregon Laws 2011 Chapter 242
HB 2321 allows agencies to send public notices by electronic mail if member of public enters into agreement with agency that clearly states that electronic means is the only way in which notices will be sent to that individual.

**HB 2825 Economic Development Transparency Website**
Effective Date: September 28, 2011
Last Action: June 1, 2011 Governor Signed
Oregon Laws 2011 Chapter 90

HB 2825 requires state agencies to submit information about tax expenditures that have a purpose connected to economic development to the Oregon Department of Administrative Services for posting on the Oregon Transparency website. The bill includes six reporting requirements and is limited to information already available in an existing database maintained by the agency. Reports must be posted on the Oregon Transparency website no later than December 31 of the same year.

HB 2825 applies to the Business Energy Tax Credit (BETC) Program under ORS 315.354, Energy Conservation Facilities excluding high-efficiency combined heat and power facilities and homebuilders planning to construct high-performance homes (ORS 469.205 (2) (a) (L) and (N)). The bill does not apply to ODOE’s Residential Energy Tax Credit Program (RETC) or Biomass Producer or Collector Tax Credit Program.

**HB 2855 Government Efficiency Task Force**
Effective Date: June 17, 2011
Last Action: June 17, 2011 Governor Signed
Oregon Laws 2011 Chapter 435

HB 2855 establishes an 18-member State and Local Government Efficiency Task Force charged with identifying opportunities to provide services in the most effective and cost-efficient manner through coordinated and integrated reorganization of the way services are delivered by state and local government entities and through specific process improvements. The bill directs the task force to submit an interim report to the appropriate legislative committee no later than January 31, 2012.

**HB 3000 Contracting preference for Oregon Goods**
Effective Date: June 7, 2011
Last Action: June 7, 2011 Governor Signed
Oregon Laws 2011 Chapter 237

HB 3000 allows a public contracting agency to give preference to a qualified bidder when procuring goods or services for a public use, if the qualified bidder offers goods that are fabricated or processed, or services that are performed entirely in this state, as long as the bid does not exceed 10 percent of a bid received that includes goods that are not fabricated or processed, or services that are not performed entirely in this state.

The majority of contracts that the Oregon Department of Energy issues under Oregon’s contracting laws are personal services contracts awarded to Oregon based companies. Passage of HB 3000 provides more flexibility for award selection.
**HB 3105 Electronic Submissions to the Legislative Assembly**

Effective Date: January 1, 2012  
Last Action: June 16, 2011 Governor Signed  
Oregon Laws 2011 Chapter 380

HB 3105 requires executive summaries of reports and notices of proposed rulemaking that must be filed with members of Legislative Assembly to be sent electronically. Oregon Department of Energy currently prepares executive summaries of reports and notices of proposed rulemaking electronically and uses interoffice mail to distribute.

**SB 241 Information on Veteran Benefits**

Effective Date: January 1, 2012  
Last Action: May 16, 2011 Governor Signed  
Oregon Laws 2011 Chapter 41

SB 241 requires state agencies to ask if agency customer or client is a veteran and, if so, provide information provided by the Department of Veterans' Affairs and Oregon Military Department’s Reintegration Team.

SB 241 requires ODOE to inquire if customers or clients are veterans during the course of normal business interactions. If the customer or client is a veteran, ODOE shall assist the veteran in obtaining veteran’s benefits or services by providing printed materials supplied by the Department of Veterans’ Affairs. ODOE is required to develop measures to satisfy the requirements of this bill, and report on the effectiveness of these measures by October 1 of each even-numbered year.

**HB 3291 Audit follow-up**

Effective Date: January 1, 2012  
Last Action: June 7, 2011 Governor Signed  
Oregon Laws 2011 Chapter 247

HB 3291 requires agencies to report actions taken or planned that address Secretary of State (SOS) audit findings. Reporting is to the Legislative Assembly that begins at least six months following the date of the completed audit and to the subcommittee of the Joint Committee on Ways and Means at all hearings related to the agency’s budget for three years after the audit report.

**SB 676 Outcomes Based Budget**

Effective Date: June 28, 2011  
Last Action: June 29, 2011 Governor Signed  
Oregon Laws 2011 Chapter 563

SB 676 directs the Oregon Department of Administrative Services and the Governor to submit continuous improvement level state budget based on performance management and performance measurement techniques. The measure allows the Joint Committee on Ways and Means, Emergency Board, and Legislative Fiscal Office to review performance management and performance measurement processes for services contracted by state agencies and school districts. The bill further directs the Governor and the Chief Justice to report to the Legislative Assembly on plan to implement continuous improvement strategies.
**HB 2241 Uniformed service definition**
Effective Date: April 14, 2011
Last Action: April 14, 2011 Governor Signed
Oregon Laws 2011 Chapter 18

HB 2241 expands the definition of “uniformed service” (for the purposes of employment protections to match federal definition) to include all categories designated by the President of the United States in a time of war or national emergency.

**HB 3207 Veteran Interviews**
Effective Date: January 1, 2012
Last Action: June 23, 2011 Governor Signed
Oregon Laws 2011 Chapter 484

HB 3207 requires agencies to interview each veteran who applies for a civil service position and who has obtained, through military education or experience, skills that substantially relate to civil service position.

**Budget**

**SB 5511 Department of Energy Budget**
Effective Date: July 6, 2011
Last Action: July 6, 2011 Governor Signed
Oregon Laws 2011 Chapter 632

The operating budget for the Oregon Department of Energy is contained in SB 5511. The budget represents a 6.8 percent decrease from the 2009-11 Legislatively Approved Budget. The bill:

- Approved a Total Funds budget of $241,732,486 and 111.23 FTE.
- Phases out staff associated with energy tax credit programs that will sunset in the 2011-13 biennium and additional expenditure limitation and limited duration staffing to address a surge in tax credit applications by those looking to complete projects prior to program sunsets.
- Federal Funds expenditure limitation and limited duration position authority to complete projects related to ARRA grants awarded in the 2009-2011 biennium.
- Five permanent staff to address increases in energy facility siting workload.

**SB 5512 Department of Energy Fee Amendments**
Effective Date: July 6, 2011
Last Action: July 6, 2011 Governor Signed
Oregon Laws 2011 Chapter 633

SB 5512 ratifies fees enacted by the Department of Energy through administrative rule during the 2009-11 biennium, to cover administrative costs associated with evaluation of projects under a tiered Business Energy Tax Credit program (HB 3680, 2010 Legislative Session), and the enactment of the Biomass Tax Credit Program (HB 2078, 2009 Legislative Session). The legislature amended the amount
of the Biomass tax Credit fee from $0.007 per dollar of tax credit certified to $0.006 per dollar of tax credit certified reducing the anticipated revenue to $58,863 Other Funds. The legislature found this adjustment to be consistent with fees charged for BETC projects.

**Failed Bills**

**SB 586  1.5% for Public Building Green Technology**  
Last Action: In Committee upon Adjournment

If enacted, SB 586 would have amended the requirement that state funded public improvement contracts for the construction, reconstruction or major renovation of buildings contain at least 1.5 percent of the total contract price for appropriate cost-effective solar energy technology by adding additional energy saving technology options.

**SB 41 Public Records Request**  
Last Action: In Committee upon Adjournment

If enacted, SB 41 would have amended provisions related to public records. The bill was introduced at the request of Attorney General John Kroger. Passage of SB 41-8 would have significantly changed ODOE’s processes for managing information requests. The bill would have established a structure for responding to bills, fixed timelines, and add a requirement to ensure that prior unpaid requests are paid prior to completing new requests. These changes would have required ODOE to develop a much more sophisticated system for tracking information requests.

(See the summary for HB 2244-Enrolled in this report)

**HB 3679  Energy Savings Performance Contracts Exemptions in State Procurement**  
Last Action: In Committee upon Adjournment

If enacted, HB 3679 would have allowed public contracting agencies to choose energy service companies from among energy service companies that appear on the State Department of Energy’s pre-qualified list without going through a competitive bidding process.

**HB 2900  Restructuring of the Oregon Department of Energy**  
Last Action: In Committee upon Adjournment

If enacted, HB 2900 would have transferred the duties and responsibilities of the Oregon Department of Energy to a newly created Office of Energy Planning and Siting, the Oregon Business Development Department, and the Public Utilities Commission.
HB 2328 Establishes Electric Vehicle Road Usage Charge
Last Action: In Committee upon Adjournment

If enacted, HB 2328 would have required persons operating electric motor vehicles and plug-in hybrid electric motor vehicles to pay vehicle road usage charge.

SB 554 Task Force on Renewable Resource Generation and Transmission Development Areas
Last Action: In Committee upon Adjournment

If enacted, SB 554 would have created a Task Force on Renewable Resource Generation and Transmission Development Areas to be staffed by the Legislative Administration Committee (A-engrossed bill). The original bill would have required the Oregon Department of Energy to staff this task force.

SB 903 Biomass Facilities Energy Efficiency Criteria
Last Action: In Committee upon Adjournment

If enacted, SB 903 would have limited ODOE rulemaking authority related to efficiency criteria contained in rules implementing the Biomass Producer or Collector Tax credits provided under ORS 315.141.