



1.5 Percent for Green Energy Technology/Woody Biomass Energy Technology: For Public Bodies Constructing New Buildings or Renovating Existing Buildings

Q: What is the requirement? When did the requirement start and how has it changed?

A: ORS 279C.527 states that a public body will spend 1.5% of the total contract price of a building on green energy technology (GET) or woody biomass energy technology (WBET).

HB 2620 (2007) established the requirement for a public body to spend 1.5% of the total contract price of a building on solar technology. Some additions/modifications that are now part of the requirement include:

- SB 1533 (2012) amended the law to include geothermal technology beginning Jan. 1, 2013.
- HB 3169 (2013) added requirements for green energy technologies installed at an alternate site and specified reporting requirements.
- HB 2987 (2015) modified requirements for holding unspent funds in an identified account, however those funds must still be spent on a future building project.
- HB 3329 (2015) modified the minimum geothermal source temperature for K-12 public schools.
- SB 634 (2017) added woody biomass energy technology as an alternative to meet the green energy technology requirement.

Q: Who must comply with the requirement?

A: All public bodies in Oregon must comply with the 1.5% requirement for GET/WBET.

Public bodies include state agencies, cities, counties, local service districts, and special government bodies including school districts, education service districts, community college districts, and public corporations created by state statute. Members of the Oregon University System are exempt from the requirement.

Q: Which buildings must comply with the requirement?

A: The requirement applies to any new public building with construction costs more than \$1,000,000. The requirement also applies to any existing building that is being renovated where the construction costs exceed \$1,000,000 and 50% of the insured value of the building. The building must be owned or controlled by a public body and either used for conducting public business or occupied by employees of the public body.

Q: Which technologies meet the green energy technology (GET) requirement?

A: ORS 279C.527 defines green energy technology as:

- Solar technologies, such as photovoltaic and solar thermal;

- Passive solar and day lighting systems that reduce whole building energy use by 20% or more; and
- Geothermal systems that use geothermal source temperatures of 140° F or more to provide heating or make electricity. Geothermal systems installed in K-12 school buildings may use a source temperature of 128° F or more. Ground source heat pumps do not meet the requirement.

Q: What is woody biomass energy technology (WBET) alternative?

A: Woody biomass energy technology is allowed as an alternative to solar or geothermal green energy technology. It is defined as a space or water heating system or a combined heat and power system that:

- Uses a boiler with a lower heating value combustion efficiency of at least 80 percent.
- Uses fuel material from trees and woody plants that is a by-product of forest management, agriculture, ecosystem restoration or fire prevention or related activities.
- Does not use for fuel wood pieces that have been treated with creosote, pentachlorophenol, chromated copper arsenate or other chemical preservatives,
- Does not use municipal solid waste, construction and demolition waste, or other industrial wood waste.

Q: Are “soft costs” included in the total contract price? Is the 1.5% to be spent calculated only on the “hard costs”?

A: All costs are included if they are a part of the public improvement contract. This would include contractor’s contingency, contractor fees, bonds and insurance, architectural, engineering, and permitting fees, the cost to construct a building including building systems, interior finishes, site infrastructure, connections to existing utilities, landscaping, and sidewalks and parking lots built for the use of the building.

Q: Can building owners purchase “green power” from a utility to satisfy the requirement?

A: No. The purchase of green power or Renewable Energy Certificates does not meet the requirement. Also, the energy supplied by the system must be used at the building site.

Q: How do public bodies report and show that they have met the requirement?

A: The law requires all public bodies to report to the Oregon Department of Energy. Reporting must be completed for projects for which GET/WBET is determined to be appropriate and for projects for which GET/WBET is determined to be inappropriate.

After completing the design of the GET/WBET technology and prior to its installation, public bodies must submit details about the technology design into the 1.5% GET/WBET reporting form on the ODOE website: <http://greenenergytechnology.odoe.state.or.us/>.

If a public body determines that GET/WBET is inappropriate, it must ask for a review from the technical review panel (TRP) and report the panel’s recommendation along with the public body determination into the 1.5% GET/WBET reporting form.

Q: What if a building owner considers a GET/WBET system inappropriate for a particular building? For example, if the building is shaded by a larger building, blocking access to the sun, or there is no geothermal source or nearby woody biomass supply for the building.

A: The law allows for locating the system at an alternative location provided the offsite location meets certain requirements. The energy produced at either location must be used at the building site. Any public body planning to use an alternate location has to request a review from the panel and provide the required documentation. The public body submits in writing the reasons for the decision, including site details, why an off-site location is preferred, and the cost of the GET/WBET system installed off-site compared to installing it onsite. The panel reviews the owner's assessment and offers its recommendation in writing. Cost-effectiveness is not a basis for determining GET/WBET inappropriate.

If the public body considers GET/WBET inappropriate both onsite and offsite, the public body must submit its reasoning to the panel. The TRP will consider the documentation provided by the public body and determine whether it agrees or disagrees with the assessment. If the panel disagrees with the public body's assessment, it can make a recommendation to the public body that the GET/WBET should be installed.

Q: What type of questions will the technical review panel address?

A: The purpose of the technical review panel is to analyze the technical feasibility of installing a GET/WBET system at a building site or an alternate site. Its role is not to review legal questions about the statute or rules.

Q: What if a public body has approved funding to build several projects and wants to consolidate funds from one or more projects to be used at the best location for the technology? Is that allowed?

A: If a public body wishes to combine 1.5% monies from one or more projects to be used at an optimal location or to make the combined installation more cost-effective, the public body must justify their decision and submit the documentation to the TRP. The panel will review the documents and provide a recommendation to the public body. When a public body provides detailed and substantiated documentation, the TRP is likely agree with the public body and recommend the consolidation of funds.

Q: Who makes up the technical review panel and how does a public body contact the panel?

A: Among others, the panel includes a professional engineer or architect, a member of a public body, a solar, geothermal, and a woody biomass technical expert and is chaired by an ODOE employee.

A public body may request a technical review by contacting Rob Del Mar at the Oregon Department of Energy, 503-302-7027 or robert.delmar@oregon.gov.

Q: What if the public body disagrees with the technical review panel's recommendation?

A: The public body should review the panel's recommendations before making a final decision whether or not to install GET/WBET. The public body then reports its decision along with the recommendation of the review panel to the GET/WBET reporting form <http://greenenergytechnology.odoe.state.or.us/>.

ODOE will include the public body's determination and the technical review panel recommendation in its annual report to the Legislature.

Q: If a public body makes a final decision that the technology is inappropriate for the building, does this complete the process?

A: The public body must report its decision not to install a GET/WBET system into the 1.5% GET/WBET reporting form <http://greenenergytechnology.odoe.state.or.us/>. The public body must provide the reason it found GET/WBET inappropriate and also provide the recommendation of the technical review panel. If no state funds are included in the total contract price, there is no further requirement.

However, if state funds are included in the construction/renovation funding, the public body must spend 1.5% of the total contract price on the next project that it builds and also must report the current project and the unspent amount in the 1.5% GET/WBET reporting form. The amount not spent must be added to 1.5% of the total project cost of the future building for installation of GET/WBET. The aggregated amount spent must be reported at the time of the next project construction.

Q: Does the public body only have to spend 1.5 percent of the state-funded portion of the current contract on the future project?

A: The amount to be added to the next project must be 1.5% of the total contract price, not just the state-funded portion.

For information about 1.5 % for Green Energy Technology: <http://www.oregon.gov/energy/energy-oregon/Pages/GET.aspx>