



Oregon

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MEMORANDUM

To: Oregon Legislative Assembly
From: Oregon Department of Energy
Date: January 21, 2022
Re: 2021 Annual Agency Rulemaking Report

2021 Annual Agency Rulemaking Report

Pursuant to Oregon Laws 2016, chapter 44, section 1 (HB 4106), the Oregon Department of Energy is providing the following information about the agency's rulemakings for the preceding 12-month period, January 1, 2021 through December 31, 2021. This report summarizes the number of permanent and temporary rules the agency adopted, amended, repealed or suspended in 2021 and can be found on [ODOE's website](#).

The agency conducts rulemaking across two OAR Chapters: Chapter 330 - Department of Energy and Chapter 345 - Energy Facility Siting Council.

Permanent Rulemakings, pursuant to ORS 183.335(2) and (3)

Chapter 330 - Department of Energy

Number of Rulemakings:	2
Number of Rules Adopted:	2
Number of Rules Amended:	15
Number of Rules Repealed:	2
Number of Rules Suspended:	0

DOE 2-2021 - Rules for Energy Efficiency Standards

Filing caption: Update energy efficiency standard rules to reflect 2021 legislation; update computer and computer monitor standard.

This amended program rules for energy efficiency standards for appliances and other products. The rule amendments:

- ◆ Conform ODOE administrative rules to statutory changes made by the 2021 Legislative Assembly in House Bill 2062;
- ◆ Update Oregon's energy efficiency standard for computers and computer monitors to match the standard recently adopted by California;
- ◆ Encourage manufacturers to make similar requests to other states when they make a request for an alternative standard to the communications port and communication interface standards in Oregon for electric storage water heaters;
- ◆ Postpone the effective date from January 1, 2022 to July 1, 2022 for the demand response water heater standard; and
- ◆ Make housekeeping changes such as deleting obsolete references and renumbering.

Amended: 330-092-0010, 330-092-0015, 330-092-0020, 330-092-0025, 330-092-0045

Date Adopted: 11/23/2021	Date Filed: 11/23/2021	Date Effective: 1/1/2022	
Adopted: 0	Amended: 5	Repealed: 0	Suspended: 0

DOE 3-2021 [Large Electric Consumers Public Purpose Program](#) (LECPPP)

Filing caption: Update Self-direct program to reflect changes to public purpose charge under House Bill 3141.

The Oregon Department of Energy submitted final rules to the Secretary of State on December 13, 2021 to amend program rules for the Large Electricity Consumer Public Purpose/Self-Direct Program (LECPPP). The amendments to permanent rules reflect the changes made by Oregon Laws 2021, chapter 547 (HB 3141) to the LECPPP/Self-Direct program, including:

- ♦ The addition of “*investments in distribution system-connected technologies*” (DS-CT) as an eligible expenditure for self-direction for eligible large electricity consumers;
- ♦ The shift of funding for energy efficiency work from the public purpose charge to charges in rates, with the charges in rates for this purpose eligible for self-direction by eligible large electricity consumers;
- ♦ Procedural updates to provide continuity for existing participating large electricity consumers having credit balances for previously implemented energy conservation projects, and for projects which were pre-certified as of January 1, 2022, but not yet completed and certified for self-direction;
- ♦ The repeal of obsolete rule language relating to the start-up phase of the program and statutory provisions which were deleted by HB 3141; and
- ♦ The addition of definitions related to the changes made by HB 3141, including a definition for DS-CT that matches the provisional definition of this term from the Public Utility Commission.¹

The rule changes became effective January 1, 2022.

Adopted: 330-140-0055, 330-140-0075

Amended: 330-140-0010, 330-140-0020, 330-140-0030, 330-140-0040, 330-140-0050, 330-140-0060, 330-140-0070, 330-140-0080, 330-140-0120, 330-140-0140

Repealed: 330-140-0090, 330-140-0100

Date Adopted: 12/13/2021	Date Filed: 12/13/2021	Date Effective: 1/1/2022	
Adopted: 2	Amended: 10	Repealed: 2	Suspended: 0

¹ The only substantive changes the department made to the draft rules before filing the permanent rules were to the documentation requirements for pre-certification of investments in DS-CT to more closely align with the reasoning underlying the PUC's provisional definition, as articulated by PUC staff in a staff memorandum prepared for a Special Meeting of the Public Utility Commission on November 30, 2021.

Chapter 345 – Energy Facility Siting Council

Number of Rulemakings:	3
Number of Rules Adopted:	9
Number of Rules Amended:	22
Number of Rules Repealed:	1
Number of Rules Suspended:	0

EFSC 1-2021 [Enforcement of Laws and Rules Governing the Transport and Disposal of Radioactive Materials and Wastes](#)

The Energy Facility Siting Council adopted permanent rules establishing new procedures for the enforcement of laws and rules governing the transport and disposal of radioactive materials and wastes.

Adopted: 345-029-0003, 345-029-0503, 345-029-0505, 345-029-0510, 345-029-0520, 345-029-0530, 345-029-0550, 345-029-0555, 345-029-0560

Amended: 345-029-0000, 345-029-0005, 345-029-0010, 345-029-0020, 345-029-0030, 345-029-0040, 345-029-0050, 345-029-0060, 345-029-0070, 345-029-0080, 345-029-0090, 345-029-0100

Date Adopted: 02/26/2021	Date Filed: 02/26/2021	Date Effective: 02/26/2021
Adopted: 9	Amended: 12	Repealed: 0
Suspended: 0		

EFSC 2-2021 [Implementation of HB 2064 and EFSC Quorum Requirements](#)

HB 2064 (2021) changed the required quorum for the Energy Facility Siting Council from “*five*” to “*a majority*.” This rulemaking was conducted to ensure that the Council could implement the new quorum requirements established by HB 2064 when it took effect on January 1, 2022. Consistent with the provisions of the HB 2064, which passed in the 2021 legislative session, the new rule reduces the number of Council members that constitute a quorum from “*five*” to “*four*.”

Amended: 345-011-0005

Date Adopted: 12/17/2021	Date Filed: 12/17/2021	Date Effective: 1/1/2022
Adopted: 0	Amended: 1	Repealed: 0
Suspended: 0		

EFSC 3-2021 [Trojan Independent Spent Fuel Storage Installation \(ISFSI\) Rulemaking](#)

This rulemaking updated rules for the Trojan Independent Spent Fuel Storage Installation (ISFSI) under OAR 345-026-0170 to 345-026-0390 and 345-070. The rulemaking was conducted to ensure that the Council’s rules adequately addressed the new aging management activities established by the renewed operating license for the ISFSI that was issued by the US Nuclear Regulatory Commission in 2019, to ensure that the rules are consistent with current federal safety requirements and guidelines.

Amended: 345-026-0170, 345-026-0300, 345-026-0340, 345-026-0350, 345-026-0370, 345-026-0390, 345-070-0005, 345-070-0015, 345-070-0020

Repealed: 345-026-0330

Date Adopted: 12/17/2021	Date Filed: 12/17/2021	Date Effective: 12/17/2021
Adopted: 0	Amended: 9	Repealed: 1
Suspended: 0		

Temporary Rulemakings, pursuant to ORS 183.335(5).
Chapter 330 – Department of Energy

Number of Rulemakings:	1
Number of Rules Adopted:	0
Number of Rules Amended:	1
Number of Rules Repealed:	0
Number of Rules Suspended:	0

DOE 1-2021 - Eligibility Criteria for Solar Contractors

Temporary Rules Filed for Oregon Solar Plus Storage Rebate Program, effective September 1, 2021 through February 27, 2022.

Filing caption: Change to eligibility criteria for solar contractors under solar plus storage rebate program.

ODOE filed the temporary rule to update the eligibility criteria for solar contractors under the Solar + Storage Rebate Program, specifically affecting solar contractors who are Energy Trust of Oregon solar trade allies. Current permanent rules require that solar trade allies must have at least four out of five stars in the Energy Trust of Oregon star rating system. The temporary rules would allow any solar trade ally who is currently eligible to apply for Energy Trust incentives to also register and make reservations for rebates under the Solar + Storage Rebate Program.

Need for the Rules

The temporary amendment to the rules for the solar plus storage rebate program changed the eligibility criteria for solar contractors who are Energy Trust of Oregon solar trade allies. A majority of eligible contractors on ODOE's current list are Energy Trust of Oregon solar trade allies. Existing program rules require Energy Trust solar trade allies to have at least four out of five stars in that organization's certification system. Since the original program rules were adopted in 2019, Energy Trust put its internal process for awarding stars to solar trade allies on hold, meaning that newer solar contractors are currently not able to earn additional stars under the Energy Trust trade ally certification system and the star ratings for more experienced solar contractors are not up-to-date. Since the star system is not currently being supported by Energy Trust, requiring a four-star rating or higher in ODOE program rules is not serving the function of ensuring that high quality contractors are registered under the program and is instead locking out newer contractors who are not able to offer solar plus storage program rebates to their prospective customers. Retaining the star rating as an eligibility criterion for contractors who are Energy Trust solar trade allies does not further one overarching purpose of the program, which is to support the expansion of the solar installation industry in Oregon.

The Department's temporary amendment to program rules allows contractors to be eligible to participate in the solar plus storage rebate program if they are Energy Trust of Oregon solar trade allies who are currently eligible to apply for Energy Trust incentives on behalf of their customers. Trade allies who are currently under a disciplinary probationary or suspended status are not eligible to apply for Energy Trust incentives, and therefore would also be unable to register or continue their registration for the solar plus storage rebate program.

Background: The Legislative Assembly appropriated \$10 million in additional funds to the program under Oregon Laws 2021, chapter 669 (HB 5006). The program was inaugurated with an initial appropriation in the 2019 Legislative session of \$2 million, of which \$1.5 million was directed to be used for rebates. The initial appropriation was completely allocated to contractors in 2020. The

Department published a notice in September 2021 of the new funding available for contractors to reserve for 30 days in advance of restarting reservations.

Agency findings: In ODOE’s opinion, having the temporary change in program rules in place before giving notice helped to ensure that qualified contractors were able to register under the program and allowed prospective customers to find a qualified contractor who could offer rebates for eligible installations. The increased funding available under the program with the 2021 Session appropriation ensured that contractors currently registered with the Department would continue opportunity to participate, even if the list of eligible contractors was expanded due to the proposed change in program rules.

The Department intends to pursue a permanent rulemaking in the first quarter of 2022 to update the funding allocation dates and contractor eligibility requirements in program rules, and to solicit ideas for additional program improvements during stakeholder outreach and consultation as part of the permanent rulemaking process.

Amends: 330-240-0020

Date Adopted: 8/31/2021	Date Filed: 8/31/2021	Date Effective: 9/1/2021 – 2/27/2022					
Adopted:	0	Amended:	1	Repealed:	0	Suspended:	0

Chapter 345 – Energy Facility Siting Council

Number of Temporary Rulemakings:	0
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