



Government-to-Government Activity Report

by the
**OREGON
DEPARTMENT OF
ENERGY**

December 2021

EXECUTIVE SUMMARY

In this report, the Oregon Department of Energy discusses ways the agency has interacted with and learned from Oregon's nine federally-recognized Native American tribes in 2021. The report provides information about efforts and actions to seek input, collaborate, and enhance relations with tribal governments regarding ODOE programs, projects, and other services. This work includes energy policy, energy financial incentives, nuclear safety, emergency preparedness, and energy facility siting, in addition to agency engagement and communications. Below are a few highlights:

Nuclear Safety: The [Oregon Hanford Cleanup Board](#), which includes a representative of the Confederated Tribes of the Umatilla Indian Reservation, met two times in 2021 via conference call and virtual meeting space to understand and assess the U.S. Department of Energy's Hanford cleanup efforts, including the plans to immobilize high-level tank waste stored in aging underground tanks. The Hanford Natural Resources Trustee Council, which is responsible for conducting the Natural Resources Damage Assessment and Restoration at the Hanford site, actively worked on assessment and planning activities throughout 2021. The Oregon trustee was chair of the Council for most of 2021. The Council membership includes the Confederated Tribes of the Umatilla Indian Reservation, the Nez Perce Tribe, and the Yakama Nation, in addition to the states of Oregon and Washington, and federal agencies.

Emergency Preparedness: ODOE's Emergency Preparedness Manager focused on wildfire and COVID-19 related efforts, as well as the [Oregon Fuel Action Plan](#). In response to wildfires in summer 2021, ODOE provided situation reports during statewide coordination calls to the tribes on the status of jet fuel delivery issues to local airports supporting firefighting efforts.

Energy Facility Siting: ODOE's [Siting Division](#) continues to notify and coordinate with tribal representatives regarding proposals for new and modified state-jurisdictional energy facilities and rulemakings. Tribes receiving notification are those identified by the Legislative Commission on Indian Services as having potential interest or information on sensitive resources that could be affected by a proposed or modified energy facility. Communication with each tribal government is accompanied by an offer from ODOE staff to meet with the tribe's Council and/or staff to discuss the notice and review process, along with guidance for cost reimbursement.

Energy Planning, Innovation, and Engagement: ODOE staff participated in meetings with tribal representatives on topics ranging from climate change impacts to energy resilience and clean energy. The 2021 legislature directed ODOE to undertake [new studies](#) on the topics of floating offshore wind, renewable hydrogen, regional transmission operator, and small-scale renewable energy. ODOE has invited tribes to participate in advisory groups associated with these studies or provide input separately to the agency according to their interest and preference.

Energy Financial Incentives: The 2021 legislature allocated \$10 million to the existing [Solar + Storage Rebate Program](#) and created two new programs at ODOE: the \$50 million [Community Renewable Energy Grant Program](#) and a \$10 million [Energy Efficient Wildfire Rebuilding Incentive](#). The agency created an advisory committee to the Community Renewable Energy Grant Program, and this committee includes a member of Confederated Tribes of Warm Springs. This committee has been integral in making suggestions about how the program can help Oregon communities, including tribes.

This report and previous annual Government-to-Government reports are available on the [Oregon Department of Energy's website](#).

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AGENCY CONTACTS

Oregon Department of Energy – Main Contacts

Janine Benner

Director

503-934-1575

janine.benner@energy.oregon.gov

Ruchi Sadhir

Tribal Liaison/Associate Director,
Strategic Engagement

503-378-6510

ruchi.sadhir@energy.oregon.gov

Oregon Department of Energy – Division Contacts

Todd Cornett

Assistant Director,
Energy Facility Siting

503-378-8328

todd.cornett@energy.oregon.gov

Max Woods

Assistant Director, Nuclear Safety &
Emergency Preparedness

503-551-8209

maxwell.woods@energy.oregon.gov

Alan Zelenka

Assistant Director,
Energy Planning & Innovation
503-373-7563

alan.zelenka@energy.oregon.gov

Cathy Connolly

Assistant Director,
Energy Development Services and
Central Services

503-373-2226

Cathy.Connolly@energy.oregon.gov



ABOUT ODOE

Our Mission

The Oregon Department of Energy helps Oregonians make informed decisions and maintain a resilient and affordable energy system. We advance solutions to shape an equitable clean energy transition, protect the environment and public health, and responsibly balance energy needs and impacts for current and future generations.

Our Values

- We listen and aspire to be inclusive and equitable in our work.
- We are ethical and conduct our work with integrity.
- We are accountable and fiscally responsible in our work and the decisions of our agency.
- We are innovative and focus on problem-solving to address the challenges and opportunities in Oregon's energy sector.
- We conduct our agency practices and processes in a transparent and fair way.

What We Do

On behalf of Oregonians across the state, the Oregon Department of Energy achieves its mission by providing:

- A Central Repository of Energy Data, Information, and Analysis
- A Venue for Problem-Solving Oregon's Energy Challenges
- Energy Education and Technical Assistance
- Regulation and Oversight
- Energy Programs and Activities

INTRODUCTION

In this report, the Oregon Department of Energy looks back at ways the agency has interacted with and learned from Oregon's nine federally-recognized Native American tribes in 2021. We believe that continuing to build on our long-standing relationships with the tribes makes our agency more effective overall while supporting our work across the state and region. Our strategic planning efforts have included greater external engagement with an emphasis on equity and furthering our unique relationship with tribes. We continue to look for opportunities where our programs and projects can be improved with input from tribes. This report provides an overview of ODOE programs and projects and the collaborative ways we have engaged with tribal governments over the last year.

STRATEGIC PLANNING

ODOE's [strategic plan](#) helps prioritize, measure progress, and strengthen alignment between agency goals, programs, and budget. As part of the Plan development, ODOE provided information at cluster meetings, and shared opportunities for input with individual tribal staff, including the survey. ODOE did receive feedback that showed that we need to improve awareness of ODOE's work and expand and improve engagement. ODOE and its Diversity, Equity, and Inclusion consultant conducted additional outreach, including tribes, to ensure DEI is a core part of our strategic plan. Outcomes of this work included recommendations that ODOE develop new partnership models and approaches, invest in better understanding of community needs and impacts, use its position to create change, provide clarity on agency work and position, and commit to doing internal equity work. This feedback was also incorporated into the five Strategic Imperatives for 2021-2024 implementation:

1. Expand and Improve External Engagement,
2. Build Practices and Processes to Achieve more Inclusive and Equitable Outcomes,
3. Assess and Enhance Organizational Data Capabilities,
4. Assess and Modernize Agency Programs and Activities,
5. Optimize Organizational Efficiency and Impact.

These objectives and initiatives will guide our internal work over the next four years in improving our ability to meet our mission. We hope to continue to work with tribes on approach and activities in this Plan. Follow the strategic planning process on [ODOE's website](#).



NUCLEAR SAFETY AND ENERGY EMERGENCY PREPAREDNESS DIVISION

The Nuclear Safety and Emergency Preparedness Division supports and interacts with the nine federally-recognized tribes in Oregon, as well as the Confederated Tribes and Bands of the Yakama Nation and the Nez Perce Tribe, on a variety of topics, including Hanford cleanup, restoration of injured natural resources related to the Hanford cleanup, radioactive material transport safety, enforcement of radioactive material disposal rules, and allocation of petroleum (diesel, gasoline, jet fuel) during interruption of distribution.

Hanford Cleanup

The Hanford Site, operated by the U.S. Department of Energy, is on land ceded by the Confederated Tribes of the Umatilla Indian Reservation and the Confederated Tribes and Bands of the Yakama Nation. The State of Oregon and the CTUIR have a Memorandum of Understanding for coordination on Hanford issues. ODOE is Oregon's lead state agency representing the state's interests in the Hanford cleanup, and manages the state's coordination on policy issues of concern to Oregon.

ODOE's technical staff work closely with their counterparts from the CTUIR, Yakama Nation, and Nez Perce Tribe on a variety of cleanup issues, including groundwater remediation, Columbia River corridor cleanup, and closure planning. The CTUIR, Yakama Nation, and Nez Perce Tribe work with ODOE on the Hanford Advisory Board to provide informed recommendations and advice to USDOE, the U.S. Environmental Protection Agency, and the Washington Department of Ecology on policy issues related to the cleanup of the Hanford site.

A representative from the CTUIR sits on the [Oregon Hanford Cleanup Board](#), which is a 20-member advisory group that recommends state policy to Oregon's Governor, Legislative Assembly, and ODOE. The Board also holds USDOE and its contractors accountable and brings Hanford issues to the public. The Board met twice in 2021. Board members discussed the state of the Hanford Site cleanup, Hanford's efforts to immobilize its 56 million gallons of high-level waste stored in aging underground tanks, and the demolition of the Hanford Plutonium Finishing Plant.

ODOE staff participated in several virtual meetings of the State and Tribal Government Working Group in 2021, which brings together representatives from states and tribes affected by USDOE sites or facilities associated with the production and cleanup of the nuclear weapons. The CTUIR, the Yakama Nation, the Nez Perce Tribe, and the Wanapum are among more than a dozen tribes and Pueblos that are members of STGWG. In recent years, STGWG has focused on three priority issue areas: long-term stewardship; natural resource damage assessment and restoration; and tribal issues.

Restoration of Injured Natural Resources

ODOE represents Oregon as one of eight natural resource trustees that participate in the Hanford Natural Resource Trustee Council. The other trustees are the CTUIR, the Yakama Nation, the Nez Perce Tribe, the State of Washington, and three federal agencies. The trustees work together to determine the extent of natural resource injury caused by releases of radioactive materials and chemicals into the environment. After the extent of the injury has been determined, the HNRTC will determine actions necessary for restoration of the injured resources.

In 2021 ODOE served as Chair to the trustee council (after serving as Vice-Chair in 2020), continuing our work with tribal trustees and other trustees. This past year the focus has been data collection,

formulating ways to analyze the data, and creating debiting and crediting methods to determine how much restoration will be owed to the public. This work focuses on assessing and recovering damages for injury to near-shore aquatic ecosystems of the Columbia River, groundwater, terrestrial ecosystems, and loss of tribal services. ODOE staff were honored to receive a placard from CTUIR, Nez Perce, and Yakama Nation “in recognition of your hard work and outstanding dedication to Hanford Natural Resource Trustee Council 2020-2021.”

The full HNRTC met nine times in 2021, in addition to technical work group meetings, to assess injury to natural resources due to Hanford operations. The senior trustees met twice in 2021 for updates. These meetings were held virtually because of travel restrictions due to COVID-19. While these travel restrictions prevented in-person meetings and planned field trips, the HNRTC’s many working groups continue make more progress than ever through virtual meeting platforms.

Radioactive Materials and Waste Transport Safety

ODOE regulates the transport of radioactive materials and waste in and through Oregon. Approximately 300 to 500 shipments of radioactive material move through Oregon each year. One of the primary transportation corridors in Oregon for radioactive material and waste transportation is Interstate 84 through northeast Oregon, which runs through the CTUIR’s reservation lands. Other primary transportation corridors are I-5 and SR 97. ODOE compiles an annual report on radioactive material transport through the state. The 2021 report will be published in advance of the 2022 legislative session; it will be [available on our website](#).

Radioactive Waste Disposal

In the 2021 legislative session, the legislature passed Senate Bill 246, which directs ODOE and the Energy Facility Siting Council to enhance and update its enforcement and investigation authorities related to [radioactive waste disposal](#), as well as clarified definitions and responsibilities for proper disposal of waste, and directed EFSC to conduct rulemaking on the topic. The Confederated Tribes of Warm Springs provided a letter of support for this bill, encouraging more protections from radioactive waste for the people, rivers and fish, and the environment of Oregon. In February 2021, EFSC adopted permanent rules establishing new procedures for the enforcement of regulations governing the transport and disposal of radioactive materials and wastes. In August 2021, EFSC appointed a rulemaking advisory committee, including a representative from the Confederated Tribes of Umatilla Indian Reservation, to provide advice on potential [rule updates in OAR 345, Division 50](#). The RAC has met twice in 2021, and will continue its work in 2022 with an expected decision by the Energy Facility Siting Council on the rulemaking project later in 2022.

Oregon Fuel Action Plan

ODOE is the lead agency representing the fuel sector for energy emergencies and emergency contingency planning. ODOE is responsible for helping ensure adequate fuel supplies to maintain emergency and essential services, and to restore critical infrastructure. This includes developing and maintaining the [Oregon Fuel Action Plan](#).

The Pacific Northwest’s most likely catastrophic event is a Cascadia Subduction Zone earthquake. This event would devastate the region’s petroleum supply and distribution system. Restoring the region’s petroleum infrastructure would likely take months, if not longer.

ODOE has no regulatory authority to require seismic upgrades to privately-owned fuel tank farms, pipeline systems, marine docks, or other fuel infrastructure facilities. However, ODOE is responsible for ensuring the state can respond to a catastrophic earthquake whenever it may happen, and to be prepared to address the effects to the fuel infrastructure in its current state with all of its vulnerabilities.

The Oregon Fuel Action Plan was developed to address this need. It is designed to bring bulk fuel supplies into the state from outside the region to support the state's ongoing emergency response and recovery efforts until the regional infrastructure can be restored. The Oregon Fuel Action Plan designates priority fuel users: the nine federally-recognized tribes, 36 county emergency management agencies, and 18 Emergency Support Function Primary State Agencies.

ODOE continues to consult, provide guidance, and serve as the subject matter expert lending support to the tribes on their fuel planning efforts.

Emergency Response Coordination

From February 13-17, 2021, Oregon Emergency Management activated the State Emergency Coordination Center (ECC) in response to severe winter weather. ODOE activated its Oregon Fuel Action Plan to coordinate fuel deliveries with fuel distributors to support first responder activities and to power generators at water and wastewater treatment facilities.

ODOE is the state's lead agency for nuclear emergency response coordination. The region's only operating nuclear power plant is on the Hanford site, about 35 miles north of Oregon. ODOE regularly conducts exercises with the power plant operator and state, local, and federal partners to prepare for potential emergencies from the plant. In October, ODOE participated in a FEMA evaluated radiological emergency response exercise for the power plant along with partner agencies include Oregon Health Authority, Oregon Department of Agriculture, Oregon Emergency Response System, Oregon State University, Oregon Emergency Response System, Umatilla and Morrow Counties, and the Oregon National Guard's Civil Support Team.

ODOE participated in daily statewide ECC coordination calls with the nine federally-recognized tribes, 36 counties, 33 state agencies, U.S. Fire Service, Bureau of Land Management, Federal Emergency Management Agency (FEMA), Department of Homeland Security, Department of Defense, and the U.S. Coast Guard from July to September 2021 to assess jet fuel needs at airports supporting wildland fire response. A sudden increase in commercial air travel coupled with an early wildfire season resulted in jet fuel supply limitations. ODOE worked with the petroleum terminals, jet fuel distributors, Oregon Department of Forestry, and Oregon Department of Aviation to [meet jet fuel demands](#) at Oregon airports supporting wildland fire response. ODOE also provided situation reports during statewide coordination calls to the tribes on the status of fuel supply and delivery problems in fire-impacted communities throughout Oregon. This information was shared with the tribes in the statewide ECC Coordination Calls.

In response to the extreme heat event June 26-28, 2021, ODOE monitored potential impacts to the fuel and propane sectors as a result of the high temperatures. ODOE participated in the ECC statewide coordination calls with the tribes.

Liquefied Natural Gas Safety, Security, and Emergency Planning

In January 2006, Governor Ted Kulongoski designated ODOE as the lead state agency to: 1) ensure Oregon's interests are protected in the federal siting process of liquefied natural gas terminals in

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Oregon, 2) develop an LNG emergency preparedness program to protect Oregonians from an LNG incident, and 3) provide safety and security oversight throughout the life of an LNG terminal sited in Oregon. On December 1, 2021, the owners of the proposed Jordan Cove LNG terminal and associated Pacific Connector pipeline announced that it was cancelling the project. While the project was in its development phase, prior to 2021, ODOE provided periodic safety, security, and emergency planning updates to the tribes. No updates were provided in 2020 or 2021 as the project was on pause by the developer. Should a future LNG terminal be proposed in Oregon, ODOE would again resume its role as the state's lead agency for safety, security, and emergency preparedness.

ENERGY FACILITY SITING

Energy Facility Siting Council

The Oregon Energy Facility Siting Council is a seven-member volunteer board appointed by the Governor and confirmed by the Oregon Senate. EFSC is responsible for reviewing applications for site certificates for all state-jurisdictional energy facilities. ODOE administers the EFSC facility siting process, which consolidates state agency and local government regulations into a single review process.

In March 2021, ODOE was pleased to welcome Perry Chocktoot as a new member of the Energy Facility Siting Council. Council Member Chocktoot serves as the Culture and Heritage Department Director for the Klamath Tribes, and brings a wealth of cultural resource expertise to the Council.

EFSC meets regularly throughout the year in locations geographically near proposed facilities. A summary of the latest information on energy projects under state jurisdiction is updated monthly and posted on [ODOE's website](#).

The December 2021 Project Update (current as of the date of this report) is [also available online](#).

Energy Facility Siting Division

The Energy Facility Siting Division at ODOE provides staff to the Energy Facility Siting Council, helping EFSC complete its review of proposed energy facilities and amendments to approved facilities. This effort brings together project developers, state agencies, tribal governments, local and regional governments, citizens, and other stakeholders to make sure proposed projects are evaluated, permitted, built, operated, and decommissioned consistent with all applicable standards, laws, and regulations. For example, state standards include protections for historic, cultural, and archaeological resources; threatened and endangered species; and fish and wildlife habitat. A summary of EFSC's standards is [available online](#).

The division also provides ongoing compliance oversight for facilities that are under construction or in operation.

Project Notification

Energy facility siting rules require the Siting Division to provide notices and requests for input to tribal governments, the public, local governments, and state agencies at designated steps throughout the site certification application and amendment processes. Through these notices and requests, the Siting Division provides details of proposed energy facilities to the tribes and invites the tribes' participation in the site certificate application review process. Specifically, during review of each proposed facility or amendment, the Siting Division seeks the tribes' input and expertise on potential effects on tribal historic and cultural resources. In addition to the formal notices, Siting Division staff offer to meet with tribal representatives to discuss both the EFSC process and specific site certificate application issues. Early in the review process, the applicant is required to identify tribes that may have an interest in a proposed facility or amendment by communicating with the Legislative Commission on Indian Services.

Not all energy projects are evaluated by the state's EFSC; many are evaluated by decision makers at the county or federal level. In 2019, the types of renewable energy projects that are evaluated through the state process changed through HB 2329. Local jurisdictions reviewing projects under HB 2329 authority must apply all existing state and local land use procedural and substantive requirements, and upon

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receipt of an application must notify federally-recognized tribes that may be affected by the project. Below is a summary table, which was prepared by staff for the 2020 [Biennial Energy Report](#), on energy project jurisdiction that shows which types of projects are evaluated through counties, HB 2329, state, and federal processes.

Renewable Energy Project Type	Primary Permitting Authority					
	County	County with HB 2329	EFSC	Oregon Water Resources Commission	Oregon Department of State Lands	Federal Government
Solar Photovoltaic	< = 100 acres	> 100 acres & < = 160 acres	> 160 acres	N/A	N/A	N/A
High Value Farmland		> 100 acres	> 1,280 acres (2 sq. miles)	N/A	N/A	N/A
Arable Farmland	< = 100 acres	> 100 acres & < = 1,280 acres	> 1,280 acres (2 sq. miles)	N/A	N/A	N/A
Other Land	< = 320 acres	> 320 acres & < = 1,920 acres	> 1,920 acres (3 sq. miles)	N/A	N/A	N/A
Onshore Wind	N/A	< = 150 MW	> 150 MW	N/A	N/A	N/A
Geothermal	N/A	< = 55.5 MW	> 55.5 MW	N/A	N/A	N/A
Biomass	< 6 BBTU/day	N/A	> 6 BBTU/day	N/A	N/A	N/A
Offshore (wind and wave)	N/A	N/A	N/A	N/A	< = 3 Miles Offshore	> 3 Miles & < = 200 Offshore (Bureau of Ocean Energy Mgmt)
Battery Storage	All projects	N/A	N/A	N/A	N/A	N/A
Hydroelectric	N/A	N/A	N/A	Projects in waters of the state	N/A	Projects in waters of the US (FERC)
Pumped Hydroelectric	N/A	N/A	N/A	Certain projects	N/A	All projects (FERC)

Opportunities for Energy Project Review Cost-Reimbursement for Tribes

In 2015, ODOE introduced and the legislature passed Senate Bill 259, which amended ORS 469.360 and ORS 469.421 to add authority for EFSC to compensate the nine federally-recognized Oregon tribes for their review of historical and cultural resources and related Tribal Codes during the Notice of Intent and application review phases of the EFSC process. Applicants for a site certificate fund the compensation, which is paid through a reimbursement agreement between ODOE and each tribal government.

To date, ODOE has entered into reimbursement agreements with the Coquille Indian Tribe, Burns Paiute Tribe, the Confederated Tribes of the Umatilla Indian Reservation, and the Klamath Tribe resulting in nearly \$24,000 in reimbursement. Staff continues to reach out to other tribes that could be affected by EFSC jurisdictional projects in an effort to establish reimbursement agreements. Questions about or interest in reimbursement agreements for Oregon tribes should be directed to the Siting Division's financial analyst, Sisily Fleming, at sisily.fleming@oregon.gov or 503-378- 8356.

Siting-Related Project Outreach to Tribes

Throughout the year, Siting Division staff coordinated with tribal governments' natural resource and archeological staff to request feedback and guidance on potential impacts from certificate holder proposed changes to approved energy facilities and a proposed energy facility located around the state. Tribes that may have an interest in a proposed facility or proposed changes to an approved facility are identified by Siting Division staff through a request to the Legislative Commission on Indian Services. Generally, Siting Division communications to tribal governments consist of a notice or memorandum requesting review and feedback during the following application phases: Receipt of Notice of Intent under OAR 345-015-0120, Receipt of Preliminary Application for Site Certificate under OAR 345-015-0180, and Determination of a Complete Application for Site Certificate under OAR 345-015-0200. The communications with each tribal government are also accompanied with an offer to meet with tribal staff to discuss the notice and the EFSC review process. In addition, each notice includes guidance for requesting cost reimbursement.

In 2021, the Oregon Department of Energy and the Energy Facility Siting Council reviewed and approved certificate holder requests for site certificate amendments (changes to approved site certificates) for two (2) solar PV energy facilities (not constructed) and three (3) operational wind facilities. These facilities include Boardman Solar Energy Facility (Morrow and Gilliam counties); Bakeoven Solar Project (Wasco County); Shepherds Flat North (Gilliam County); Shepherds Flat South (Gilliam and Morrow counties); and Shepherds Flat Central (Gilliam and Morrow counties). ODOE distributed detailed memorandums or notices to each of the potentially affected tribes (as identified by the Legislative Commission on Indian Services) during the review phases for the above-referenced facilities to offer information and request tribal input. Based on the Department's review request and outreach to tribal governments for the referenced facilities, all issues and interests identified by tribal contacts were addressed based on comments received.

In some cases, tribes may elect to seek resolution of their concerns about a proposed energy facility outside of the EFSC process, where if applicable, Siting Division staff would request a formal response from the tribe/tribal contact to document the tribes' determination that potential impacts to tribal resources from a proposed or modified facility were adequately evaluated and mitigated. The Department recognizes that each tribe has its own history, present-day experience, preferences, and legal rights; accordingly, Siting Division staff seek to continually educate themselves in order to best coordinate with each tribe. We are grateful to tribal staff who have taken the time to participate in

phone conferences and provide comments in response to the Department's request throughout the siting process. For more information about facilities currently undergoing ODOE/EFSC's review, please refer to the [Siting Division's Project Updates](#), which are updated monthly.

Jordan Cove Energy Project

On December 1, 2021 the project owner requested that FERC vacate the authorizations for the project under Sections 3 and 7 of the Natural Gas Act. Although the DC Circuit Court of Appeals and FERC will need to complete their formal processes, this effectively means that the authorizations for the LNG terminal and Pacific Gas Connector Pipeline will be terminated, ending the project.

While the project was still active, ODOE facilitated meetings and communications among state regulatory agencies in order to help understand the regulatory interconnectivity, timelines, and requirements of the various permitting processes. In collaboration with the Governor's office, ODOE also facilitated meetings and communications among the state agencies and Oregon's tribes. ODOE still has [a webpage](#) that provides consolidated project updates and information about the project.

Energy Facility Siting Council Rulemaking

The Energy Facility Siting Council [conducts rulemaking](#) to adopt rules and standards for the siting, construction, and oversight of energy facilities and other areas within the Council's subject matter jurisdiction, including the regulation of radioactive materials and wastes. Siting Division staff requests input from Tribal governments during the development of proposed rules and seeks to include representatives of tribal governments in rulemaking advisory committees and other public rulemaking meetings and workshops.

In addition to the rulemaking on the transport and disposal of radioactive waste rulemaking mentioned above, the Council is expected to complete two additional rulemaking projects that are largely technical in nature this year. The first updates the Council's rules for the Trojan Independent Spent Fuel Storage Installation to reflect changes in inspection and reporting procedures that resulted from the U.S. Nuclear Regulatory Commission's renewal of the facility's federal operating license. The second project implements HB 2064 from the 2021 legislative session, which changes the Council's quorum requirements. Siting Division staff did not conduct specific outreach activities as part of the development of these draft proposed rules, but the Notice of Proposed Rulemaking was provided to all persons on the Council's rulemaking mailing list required under ORS 183.335(5), which includes representatives from the Coquille Indian Tribe, the Burns Paiute Tribe, Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians, Confederated Tribes of Grand Ronde Community, the Confederated Tribes of the Umatilla Indian Reservation, and the Confederated Tribes of the Warm Springs Reservation of Oregon

The Council will review staff's recommended rulemaking schedule for the 2022-2024 time period and provide additional input on rulemaking priorities for the coming year at its meeting on December 17, 2021. The 2022-2024 rulemaking schedule contains several new and previously approved rulemaking projects which may affect tribal interests, including a project to evaluate options to encourage early communication between applicants and tribal governments to identify historic, cultural, and archaeological resources early in the site certificate application process. As part of ongoing efforts to improve engagement with tribes in the rulemaking process, Siting Division Staff intends to send notification letters to tribal councils early in the rulemaking process for all projects starting in 2022 and beyond that may affect tribal interests.

ENERGY PLANNING, INNOVATION, AND ENGAGEMENT

The Energy Planning & Innovation Division supports ODOE's mission by pursuing programs and policies that help Oregonians conserve energy, use energy more efficiently, and produce energy using renewable sources. The Division's two sections, Energy Efficiency & Conservation and Energy Technology & Policy, collaborate with ODOE's other divisions, state and federal agencies, tribes, local governments, and stakeholders to help support the development of clean energy resources and integrate those resources into the state's transmission and distribution system. The division offers energy expertise across sectors, including efficiency in buildings and manufacturing and alternative fuels and infrastructure, while helping Oregon build a more resilient energy system – one that is well prepared to respond to issues such as climate change and natural disasters.

ODOE provides staff support to the [Oregon Global Warming Commission](#) and accordingly is collecting and analyzing data and information as part of the process to develop [Oregon's Greenhouse Gas Emission Reduction Plan: Roadmap to 2035](#). The Roadmap will identify and analyze actions across all sectors that can reduce greenhouse gas emissions and/or sequester carbon, and provide additional co-benefits for Oregonians and Tribal communities. Commission Chair Cathy Macdonald wrote a joint letter with ODOE's director to each tribe requesting input and participation. The letters requested an interview to discuss this project early in the process to better understand each tribe's preferences for engagement and discuss thoughts on how to make the engagement process as meaningful and effective as possible.

In 2021, ODOE received a grant from US Department of Agriculture to create a [Rural & Agricultural Energy Audit Program](#). The funding supports energy audits for Oregon rural small businesses and agricultural producers statewide. ODOE will use the grant funding to pay for 75 percent of the cost of an energy audit (payable to the auditor conducting the audit); program participants will be responsible for the remaining 25 percent of the cost. The program is currently in a "pilot phase" and is working on expanding in 2022. ODOE will be sharing more information with Tribes in 2022 to find out if there is interest in these types of energy audits, which can help participants understand how to save energy and save money.

During the 2021 legislative session, ODOE was directed to [conduct four studies](#): (1) regional transmission organization, (2) renewable hydrogen, (3) floating offshore wind, and (4) small scale renewable energy projects. While the bill creating the regional transmission organization study involved an advisory committee and public comment opportunities with a December 2021 report deadline, the other three studies will include broader external engagement and a longer timeline for producing reports. ODOE plans to send letters to each tribe, requesting input and participation for the renewable hydrogen study, floating offshore wind study, and small-scale renewable energy projects workgroup and study.

In a cross-divisional effort, ODOE expanded its development and engagement process for the [2020 Biennial Energy Report](#). In the 2020 report, ODOE was also able to highlight select tribal energy-related activities, including a net-zero building case study (CTUIR), perspectives on low-income housing assistance (Klamath), a history timeline with tribal events, and tribal climate action planning. Looking toward the 2022 report, ODOE plans to conduct specific outreach to tribes and opportunities to provide comments. Previous areas of interest that will be considered for the 2022 report include greater access to clean energy resources and ensuring energy options for diverse communities; maintaining reliable and low-cost energy; learning more about emerging technologies; and resource protection. These areas and other topics will receive exploration for the scoping and outreach for the 2022 report.

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The Planning and Innovation Division Rulemaking Coordinator added additional process steps that require early notification letters to tribal councils on rulemaking activities. These process steps were completed for rulemaking on energy efficiency standards for appliances, which involved sending early notification letters to the tribal councils of all nine federally-recognized tribes in April 2020. The rulemaking on energy efficiency standards for appliances was completed in August 2020 and the Legislature adopted a bill to finalize those standards during the 2021 legislative session.

The [Oregon Renewable Energy Siting Assessment](#) project is funded through a \$1.1 million U.S. Department of Defense grant awarded to ODOE, working in partnership with the Department of Land Conservation & Development and Oregon State University's Institute for Natural Resources. DOD's overarching goal is to support military compatibility through coordination and raising awareness. Key project goals are to create relevant educational tools for stakeholders, agencies, tribes, local governments, and policy makers about renewable energy conflicts and compatibility. Key project objectives are baselining data, information, and perspectives to create a transparent, consistent collection of trusted, accurate information in Oregon, without recommendations or endorsements, and noting where information may be imprecise or uncertain. ODOE's Director has sent letters to the nine Tribal Council Chairs with information on this project and invitations to provide input. Tribes, local governments, and nongovernment organizations have also received invitations to participate in focus groups for the Mapping and Reporting Tool. The project team has provided presentations at the LCIS Culture Cluster and the Natural Resources working group – both about the project and sharing an early version of the tool. Project team members also separately met with interested tribal staff, LCIS, and SHPO to discuss the Mapping and Reporting Tool development approach – which has involved not including data about cultural resources and instead providing contact information for the tribes themselves to encourage early notification and coordination. The project team continues to offer to facilitate discussions and demos of the Tool with tribal staff or tribal council. Questions or interests in meetings can be directed to the ORESA Project Manager, Kaci Radcliffe at kaci.radcliffe@oregon.gov or 503-400-5426.

ODOE works closely with the [Northwest Power & Conservation Council](#), and the two Oregon council members are administratively supported by ODOE. We deeply appreciated the work of CTUIR member Chuck Sams on the Council and we congratulate him on his confirmation to lead the National Park Service. ODOE is looking forward to working with Mr. Sams's replacement on the Council, Louie Pitt. As Director of Governmental Affairs for the Confederated tribes of Warm Springs, Mr. Pitt will bring deep energy and natural resources knowledge to the Council.

The federal 1980 Northwest Power Act requires the Northwest Power & Conservation Council to develop a regional power plan and fish and wildlife program to balance the Northwest's environment and energy needs. Over the past year, ODOE staff engaged with the Council as it developed the 2021 regional power plan. As part of this effort, ODOE staff met with and discussed energy priorities with the Columbia River Inter-Tribal Fish Commission (CRITFC). ODOE [filed comments on the plan](#) raising concerns about a reduction in energy efficiency targets, a concern shared by CRITFC.

Along with ODOE's participation in the Natural Resource Work Group and Cultural Resources Cluster meetings during 2021, over the past year, staff from several of ODOE's divisions have taken advantage of opportunities to participate in tribal events, including:

2021 State/Tribal Summit – The Agency Director and Associate Director for Strategic Engagement & Development (Tribal Liaison) participated in the 2021 Annual Tribal-State

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Government-to-Government Summit through virtual webinar, facilitated by Governor Kate Brown and her staff on December 1-2, 2021.

LCIS, Cultural Resources Cluster, and Natural Resource Work Group – The Associate Director for Strategic Engagement (Tribal Liaison), as well as Energy Facility Siting Division and Strategic Engagement staff, attended meetings throughout the year. The Agency Director and Associate Director for Strategic Engagement & Development (Tribal Liaison) participated in the 2021 LCIS Spring Celebration. ODOE staff also participated in an LCIS survey as the new Executive Director came on board.

National Tribal Leadership Summit – The Assistant Director for Energy Development Services participated in this Summit, with a focus on the Tribal Climate Change Policy, in January 2021.

PSU Institute for Tribal Government and Center for Public Service – The Associate Director for Strategic Engagement (Tribal Liaison) participated in a panel discussion with students that are pursuing a certificate in tribal relations.

ODOE has formed an internal tribal engagement coordination team made up of staff from the divisions of the agency. The purposes of this team include: sharing information about agency engagement and coordination with Oregon tribes; brainstorming ideas for collaboration with Oregon tribes; implementing changes to further improve tribal relations for the agency; providing resources for agency staff; and pulling together information to share with tribal staff. ODOE will be expanding this team's effort over the next two years as part of our [strategic plan](#) initiative to "Build on existing tribal engagement efforts by expanding internal responsibilities and resources, and reaching out to tribes to assess and amplify shared interests and priorities."

ENERGY FINANCIAL INCENTIVES

The Energy Development Services Division has managed [energy incentive programs](#) at the Oregon Department of Energy for over 40 years, helping Oregonians conserve energy, install energy efficient equipment, and develop renewable energy projects. Following the sunset of ODOE's tax credit programs in 2017, the EDS division focused on issuing the remaining Renewable Energy Development Grants in 2019 and managing the ongoing portfolio of Small-scale Energy Loan Program loans. In 2020, ODOE launched a new Oregon Solar + Storage Rebate program, with an initial \$2 million budget. The 2021 Legislature allocated an additional \$10 million for the solar rebate program, and created a new \$10.8 million Energy Efficient Wildfire Rebuilding Program at the agency, in addition to a new \$50 million Community Renewable Energy Grant Program.

Community Renewable Energy Grant Program

In 2021, the Oregon legislature passed House Bill 2021, which created a [\\$50 million fund](#) at the Oregon Department of Energy to provide grants to offset the cost of planning and developing community renewable energy and energy resilience projects. The program's aims include making community renewable energy projects economically feasible, promoting small-scale renewable energy projects, and providing a variety of direct benefits to communities across the state. The [rulemaking process](#) is expected to be completed in February 2022 with the first opportunity announcements expected March 2022. The program limits eligible applicants for grants to public bodies, including tribes, cities, counties, and ports (among others). Oregon's nine federally-recognized Native American tribes may submit applications, or be a partner on applications, for a grant to plan or develop a project. One of the program's focuses will be to ensure environmental justice communities are involved in, and benefit from, projects. Fifty percent or more of the initial program fund is allocated for grants to fund projects that primarily serve at least one environmental justice community. The program aims to increase the involvement of tribal communities in the siting, planning, designing, and evaluation of proposed community renewable energy projects by assessing tribal communities' involvement in, and leadership of, relevant projects during the competitive review of the applications.

In the fall of 2021, ODOE staff convened an [advisory committee](#) to support development of program rules, program implementation and community outreach. Staff recruited Danny Martinez, Tribal Emergency Manager with the Confederated Tribes of Warm Springs, to serve on the advisory committee. Reuben Martinez, Tribal Liaison with Renewable Northwest, has also provided feedback in an ex-officio role in the Advisory Committee.

ODOE staff are also working with partners, including Regional Solutions and Sustainable Northwest, to conduct direct program outreach to Oregon Tribes. So far, a coordination call is planned with the Executive Director of the Warm Springs Community Action Team and a Zoom meeting is also being coordinated with Council Member at Large and the General Manager of the Klamath Tribes. ODOE staff welcomes additional discussions with interested Oregon Tribes; questions or interests in meetings can be directed to Senior Policy Analyst, Rob Del Mar, at robert.delmar@energy.oregon.gov or 503-302-7027.

Solar + Storage Rebate Program

The [Oregon Solar + Storage Rebate Program](#) was established by the Oregon Department of Energy at the direction of HB 2618, passed by the Oregon State Legislature in 2019. The legislation called for the department to adopt a program to provide rebates for the purchase, construction, and installation of solar electric systems and paired solar and storage systems.

Program rebates are issued to participating contractors, who pass the savings on to eligible customers as a reduction in the price of the installed system (ODOE's program staff do not work directly with the customers). To claim a rebate, a contractor must first apply for a reservation of rebate funds prior to the start of project installation. Reservations are converted into cash rebates once a contractor certifies a project complete. The legislature directed the department to make at least 25 percent of the rebate budget available for projects installed for low- or moderate-income residential customers and low-income service providers. Low-income service providers are a specific group of non-residential customers that provide assistive services to lower-income individuals and households. The department accepted rebate reservations from January 2020 until the initial tranche of program funding was fully allocated in September 2020.

The Oregon Solar + Storage Rebate Program was idle until September 2021 when additional rebate funding provided by the 2021 Legislature began being made available. The department has reserved one-half (~\$5 million) of the 2021 legislatively authorized funding allocation for deployment in 2022 after a public program [rulemaking](#) scheduled for January 2022. One of the purposes of the 2022 program rulemaking is to ensure program rules encourage tribal project participation to the fullest extent possible. The department anticipates reaching out to engage with Oregon tribal governments as part of the 2022 program rulemaking.

Energy Efficient Wildfire Rebuilding Incentive Program

In 2021, the Oregon legislature passed House Bill 5006, which granted the Oregon Department of Energy \$10,831,296 for a program to [incentivize energy efficient rebuilding](#) of residential, commercial, and public buildings destroyed by wildfire between August 1 and September 30, 2020. The program will seek to assist building owners to rebuild to current energy code building standards or above. [Rulemaking processes](#) are underway and the program is anticipated to be established by February 1, 2022. ODOE collaborated with the Oregon Office of Emergency Management to identify all damaged and destroyed structures in the 2020 wildfires, specifically evaluating if any residential or commercial structures suffered major damage or were destroyed on tribal government lands. No structures were identified.

POLICY ON GOVERNMENT-TO-GOVERNMENT RELATIONS

ODOE's Tribal Policy on Government-to-Government Relations is attached and made a part of the 2021 Government-to-Government Report.

CONCLUSION

During 2021, the Oregon Department of Energy continued to pursue new ways to engage and collaborate with the nine federally-recognized tribal governments in Oregon. These efforts have been

focused on strengthening our relationships with tribal representatives and providing services and information that is beneficial. We have also sought out tools to help our staff improve their understanding of tribes and the importance of promoting government-to-government relations with the nine federally-recognized tribal governments in Oregon. We will continue to ensure this is part of our agency culture. We [welcome input](#) on how we can assist tribal governments, improve our relationships, and collaborate more effectively.

FOR MORE INFORMATION

The Oregon Department of Energy
550 NE Capitol Street NE
Salem, OR 97301

503-378-



4040 | 800-221-8035

askenergy@oregon.gov

www.oregon.gov/energy



ATTACHMENT 1: ODOE POLICY ON STATE/TRIBAL GOVERNMENT-TO-GOVERNMENT RELATIONS

OREGON DEPARTMENT OF ENERGY

Internal Policies and Procedures



Subject: State/Tribal Government to Government Relations
Policy Number: ADM-08
Policy Owner: Director
Effective Date: December 14, 2020

Approved: [SIGNATURE ON FILE]
Janine Benner, Director

Applicability:

This policy applies to all Oregon Department of Energy employees.

Purpose:

The purpose of this policy is to promote government to government relations between the Oregon Department of Energy and Oregon's nine federally recognized tribes.

This policy is adopted pursuant to ORS 182.162-168, which requires state agencies to develop and implement tribal relations policies.

Policy:

ODOE recognizes and respects the sovereign status of Oregon's federally recognized tribes and their respective authorities on tribal lands. It is the policy of the Oregon Department of Energy to promote positive government to government relations, communications and cooperation with the tribes in areas where development and implementation of agency programs may affect tribal lands, activities, or interests.

ODOE believes that continuing to build on our long-standing relationships with the tribes makes our agency more effective overall while supporting our work across the state and region. The tribes are advancing innovative programs and projects; ODOE is committed to learning from the tribes about this work and finding opportunities where our agency programs can be valuable resources for the tribes. ODOE also continues to look for opportunities where agency programs and projects can be improved with input from the tribes. Positive government to government relations, communications and cooperation increases our collective ability to lead Oregon to a safe, equitable, clean, and sustainable energy future.

The Director designates a key agency contact for the purpose of serving as a liaison with tribal governments (known as the Tribal Liaison) and provides the contact information for the Tribal Liaison on the agency website and to the Legislative Commission on Indian Services. The Tribal Liaison coordinates with the tribes, supports internal agency programs and projects, and participates in Tribal-State cluster meetings.

ODOE promotes strong government to government relationships at the leadership, managerial, and staff levels with the tribes. ODOE will demonstrate its commitment to positive government to government relations with the tribes through such practices as follows:

- The ODOE Director, Tribal Liaison, and Administrators or staff of each agency division, will meet regularly with each tribe to discuss issues of mutual interest and explore opportunities for greater state/tribal partnership and collaboration.

- ODOE will identify managers and employees who are responsible for developing and implementing agency programs that affect the tribes.
- ODOE will make a reasonable effort to cooperate with tribes in the development and implementation of agency programs that affect the tribes such as early notification and engagement.
- ODOE will support and participate in cooperative efforts between tribal governments and federal, state, and/or local governments through its Hanford Clean-Up Board and the Energy Facility Siting Council, through the safe transportation of radioactive waste through the state, through the allocation of petroleum during times of shortages and disruptions, and through the development and implementation of energy policies and programs, including energy incentive programs.
- ODOE will seek and invite tribal representation on ODOE advisory boards and working groups that are of interest to the tribes.
- ODOE will support the exchange of relevant data collected by ODOE staff or by tribal governments.
- ODOE will consult with the Legislative Commission on Indian Services on matters concerning tribal government.
- ODOE staff who have regular communication with the tribes will receive periodic training on the legal status of the tribes, the legal rights of members of the tribes and issues of concern of the tribes through training provided by the Department of Administrative Services and/or other learning opportunities.
- ODOE will disseminate this policy to all ODOE employees and to new employees through new employee orientation and will maintain the policy on the Intranet.
- ODOE will submit an annual report to the Governor and the Commission on Indian Services on the activities of the agency that support ORS 182.162-168.
- ODOE will seek other opportunities to learn from and build relationships with the tribes.

History:

- November 30, 2016: Policy established.
- December 14, 2020: Policy revised to provide greater specificity and clarity on ODOE's engagement with the tribes.

References:

ORS 182.162–182.168
ORS 190.110
Executive Order 96-30

Attachments:

None