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ARCHIVES DIVISION
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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 330
DEPARTMENT OF ENERGY

FILED
09/26/2018 4:52 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Clarify and update industrial self-direction program rules relating to project applications and fees.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/31/2018 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Salem, OR 97301

Filed By:
Wendy Simons
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 10/24/2018

TIME: 9:00 AM

OFFICER: Wendy Simons

ADDRESS: Oregon Department of
Energy

Meitner Room, First floor

550 Capitol St NE

Salem, OR 97301

SPECIAL INSTRUCTIONS:

Please see ODOE webpage for parking
information.

NEED FOR THE RULE(S):

The proposed rule changes would provide clarification and bring better alignment of the rules with department practice regarding how fees are charged - only at time of conservation and renewable project application, and Green Tags application, and that those fees need to recover all program costs, direct and indirect, not just "cost of services." The proposed rule changes will also explicitly state that periodic adjustments may be made to the fee rate so that fees collected recover all costs to administer the program. The proposed changes would revise language in other rules related to cost recovery, e.g., removing the requirement for participants to reapply annually in order to remain eligible. No annual fee has been collected for many years. The proposed changes would add a requirement for each site to provide evidence that their prior year electric usage is greater than statutorily required one annual MW as part of application process for new conservation project, new renewable project, and new Green Tags contract.

Additionally, there are a few other minor changes to rule language that would not have a material effect on program administration, but would bring the OARs into closer alignment with current agency and participant practices: adding

the defined term "Green Tags" also known as Renewable Energy Certificates (as an eligible use of self-directed funds) to 330-140-0070 (Certification of Qualifying Expenditure for New Renewable Energy Resources), adding project completion as a requirement for 330-140-0060 (Certification of Qualifying Expenditure for New Energy Conservation Projects), and removing obsolete language in 330-140-0080 (Claiming a Public Purpose Charge Credit) referring to a deadline which has passed and is no longer relevant. Lastly, the proposed rule changes would add language related to self-direct credits being available to offset public purpose charges owed as long as the obligation to pay those public purpose charges exists.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

ORS 469.040: https://www.oregonlegislature.gov/bills_laws/ors/ors469.html

ORS 756.040: https://www.oregonlegislature.gov/bills_laws/ors/ors756.html

ORS 757.600-757.687: https://www.oregonlegislature.gov/bills_laws/ors/ors757.html

FISCAL AND ECONOMIC IMPACT:

The department anticipates that the rule changes will have no or minimal fiscal or economic impacts.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) No state agencies or units of local government are likely to be economically affected by the rules. Units of local government that operate municipal facilities that consume large amounts of electricity could be eligible to participate in the Large Electricity Consumer Public Purpose Program (commonly known as the industrial self-direction program), but at this time no such facilities are program participants. The rule changes are expected to have minimal impact on the administrative work required for program participation and therefore would have minimal economic effect.

(2) (a) In order to be eligible to participate in the industrial self-direction program, electricity consumers must have annual usage of at least one average megawatt, or 8,760,000 kWh hours, which would be equivalent to an annual electric utility bill of approximately \$5,000,000 or more. Few, if any, small businesses would meet that threshold. Most program participants are large industrial companies, plus a few large hospital complexes and universities with substantially more than 50 employees.

(b) The proposed rule changes could have a very small impact on the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s) by requiring that participants provide documentation from their electric utility in the form of a spreadsheet demonstrating that the participating site's prior year electricity usage is above the program eligibility threshold. (The majority of sites who participate in the self-direct program do so via Green Tags where their utility handles the paperwork and already has the information at hand.) However, providing information on prior year usage at the time a project application is submitted will prevent the necessity of recovering this information if verification is needed at a later date. With regard to another proposed rule change, the amended rules represent less paperwork than current rules in that the program would no longer require large electricity consumers to apply for self-direction eligibility every year. Furthermore, participation in the program is voluntary. Those sites that do need to incur the small incremental effort to collect and pass on the required data from the utility for new conservation projects are able to recoup 100 percent of their conservation project costs through the self-direction program.

(c) The proposed rule changes could have a small impact on the cost of labor and administration required to comply with the rule(s) by requiring that participants provide documentation from their electric utility in the form of a spreadsheet demonstrating that the participating site's prior year electricity usage is above the program eligibility threshold.

However, providing information on prior year usage at the time a project application is submitted will prevent the necessity of recovering this information if verification is needed at a later date. Furthermore, as stated above, participation in the program is voluntary, and allows participants to recover 100 percent of conservation project costs.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Few, if any, small businesses are likely to meet the eligibility threshold for the industrial self-direction program which requires that participants have prior year electricity usage of one average megawatt, and no small businesses are currently or have ever been active in the program. However, the department reached out to all parties who have expressed interest in industrial self-direction program rulemakings in the past, which includes program participants, and held a stakeholder meeting September 12, 2018, with an additional opportunity to provide follow-up written comment on the draft rules.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The department reached out with multiple GovDelivery notices to all parties who participate in, have interacted with, or who have expressed interest in the industrial self-direction program, and held a stakeholder meeting September 12, 2018, to present the draft rules, answer questions, and accept comments. The meeting was lightly attended but did include a representative range of stakeholder including representatives from individual industries, industry associations, and an electric utility.

HOUSING IMPACT STATEMENT:

As required under ORS 183.530 and 183.534, the Department has evaluated the impact of these rules and believes these rules will cause no impact to the following costs for developing a typical 1,200 square foot detached single family dwelling on a 6,000 square foot parcel of land:

- (1) materials and labor costs
 - (2) administrative construction or other costs
 - (3) land costs, or
 - (4) other costs.
-

RULES PROPOSED:

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

AMEND: 330-140-0010

RULE SUMMARY: The proposed changes to this rule would ensure consistency of terminology throughout the rules for the industrial self-direction program and would clarify language regarding the applicability of program rules to aluminum plants using over 100 average megawatts of electricity per year.

CHANGES TO RULE:

330-140-0010

Scope and Applicability of These Rules ¶¶

- (1) The rules contained in this division include the criteria and procedures by which a large retail electricity consumer with a site located within the State of Oregon, using more than one average megawatt in a calendar year (8,760,000 kilowatt hours/year), may become a self-directing consumer of a portion of its public purpose charges.¶¶
- (2) The rules contained in this division apply to large retail electricity consumers of electric companies and

electricity service suppliers, except that these rules do not apply to retail electricity consumers of an electric company serving less than 25,000 consumers in this state unless the electric company offers direct access to any of its large retail electricity consumers in this state or offers to sell electricity services available under direct access to more than one large retail electricity consumer of another electric utility.¶

(3) The rules contained in this division apply to large retail electricity consumers of consumer-owned utilities and electricity service suppliers, once the consumer-owned utility governing board has elected to allow open access to a class of customers for which that electricity consumer is a member. These rules only apply to the first three percent of public purpose charges imposed upon retail electricity consumers by a consumer-owned utility.¶

~~(4) The rules contained in this division apply to a public purpose charge equal to 1 percent of the total revenue from the sale of electricity to large retail electricity consumers that are an aluminum plant whose electric company's service territory abuts the greatest~~With regard to an aluminum plant that uses more than 100 average megawatts of electricity per year, the rules contained in this division apply to a public purpose charge equal to one percentage of the site of the aluminum plant that uses more than 100 average megawatts~~total revenue from the sale of electricity per year to the plant.~~¶

(5) Large retail electricity consumers eligible to become self-directing consumers shall not claim a credit against public purpose charges owed for new energy conservation or new renewable energy resource purchases until they are issued certificates for qualified expenditure under these rules.¶

(6) All information submitted to or collected by the Oregon Department of Energy or its agent under these rules shall be protected as business trade secrets to the extent permitted under the Public Records Act.

Statutory/Other Authority: ORS 469.040, ORS 756.040, ORS 757.600 - 757.687

Statutes/Other Implemented: ORS 756.040, ORS 757.600 - 757.687

AMEND: 330-140-0020

RULE SUMMARY: The proposed rule changes would: add a definition of "Green Tags;" make minor wording changes to ensure consistency of terminology throughout program rules; and delete unused and obsolete definitions for terms not used elsewhere in program rules.

CHANGES TO RULE:

330-140-0020

Definitions as Used in This Division ¶

- (1) "Above-market costs of new renewable energy resources" means the portion of the net present value cost of producing power (including fixed and operating costs, delivery, overhead and profit) from a new renewable energy resource that exceeds the market value of an equivalent quantity and distribution (across peak and off-peak periods and seasonality) of power from a nondifferentiated source with the same term of contract.¶
- (2) "Attest" means attestation services as defined in ORS 673.010(1).¶
- (3) "Certification of Qualified Expenditure for New Energy Conservation" means written notification from the Oregon Department of Energy to a large electricity consumer that certifies the cost of an installed energy conservation project is eligible to be claimed as a credit against public purposes charges owed by the large electricity consumer under these rules.¶
- (4) "Certification of Qualified Expenditure for New Renewable Energy Resources" means written notification from the Oregon Department of Energy to a large electricity consumer that certifies the contracted cost of new renewable energy resource purchases is eligible to be claimed as a credit against public purpose charges owed by the large electricity consumer under these rules.¶
- (5) "Commission" means the Public Utility Commission of Oregon.¶
- (6) "Consumer-owned utility" means a municipal electric utility, a people's utility district or an electric cooperative.¶
- ~~(7) "Declaration of Intent to Self-Direct Public Purposes Charges" means a request in writing from a large electricity consumer that requests the Oregon Department of Energy recognize the large electricity consumer as eligible to self-direct public purpose charges under these rules.¶~~
- ~~(8) "Direct access" means the ability of a retail electricity consumer to purchase electricity and certain ancillary services, as determined by the Commission for an electric company or the governing body of a consumer-owned utility, directly from an entity other than the distribution utility.¶~~
- ~~(98) "Direct service industrial consumer" means an end-user of electricity that obtains electricity directly from the transmission grid and not through a distribution utility.¶~~
- ~~(109) "Distribution" means the delivery of electricity to retail electricity consumers through a distribution system consisting of local area power poles, transformers, conductors, meters, substations and other equipment.¶~~
- ~~(110) "Distribution utility" means an electric utility that owns and operates a distribution system connecting the transmission grid to the retail electricity consumer.¶~~
- ~~(121) "Electric company" means an entity engaged in the business of distributing electricity to retail electricity consumers in this state but does not include a consumer-owned utility.¶~~
- ~~(132) "Electric cooperative" means an electric cooperative corporation organized under ORS Chapter 62 or under the laws of another state if the service territory of the electric cooperative includes a portion of this state.¶~~
- ~~(143) "Electric utility" means an electric company or consumer-owned utility that is engaged in the business of distributing electricity to retail electricity consumers in this state.¶~~
- ~~(154) "Electricity" means electric energy measured in kilowatt-hours, or electric capacity measured in kilowatts, or both.¶~~
- ~~(165) "Electricity services" means electricity distribution, transmission, generation or generation-related services.¶~~
- ~~(176) "Electricity service supplier" or "ESS" means a person or entity that offers to sell electricity services available pursuant to direct access to more than one retail electricity consumer. "Electricity service supplier" does~~

not include an electric utility selling electricity to retail electricity consumers in its own service territory. An ESS can also be an aggregator.¶

(187) "Energy Conservation Project" means a capital investment in equipment that reduces the electric energy use or improves electric energy efficiency at a large electricity consumer's site or system at that site which has a simple payback of greater than one year and less than ten years. The simple payback shall be determined by using the eligible capital cost of the project divided by the first year electric energy cost savings.¶

(198) "Energy conservation project cost" means the costs of necessary features of an energy conservation project that include but are not limited to capital costs, administrative costs, general expenses, facility energy audits resulting in capital investment in an energy conservation project, design and engineering, shipping, materials, permits, installation, performance evaluation, and equipment operations training. The cost of a new energy conservation project may include large electricity consumer's cost of an energy analysis or study conducted by any public or private party, and any administrative costs paid.¶

(19) "Green Tags" refers to renewable energy certificates or RECs.¶

(20) "Independent Energy Audit" means an evaluation by an independent auditor of all potential electricity using systems at an electric consumer's site that identifies in a written report the characteristics of electric energy use of those systems and all energy conservation projects for each of the electric energy using systems at the site.¶

(21) "Independent Energy Auditor" means a provider of energy systems audits that identify potential energy conservation projects for large electricity consumers that is not in the employ of the retail electricity consumer's company or any of its subsidiary or affiliate organizations except under contract as an independent service provider that is selected to provide independent audit service under these rules. An independent auditor may include a consumer-owned utility.¶

(22) "Independent certified public accountant" means a certified public accountant recognized by the State of Oregon and independent as defined by the ethics rules implemented under ORS 673.010-673.480.¶

(23) "Large electricity consumer" means a nonresidential consumer that is a retail electricity consumer that has used more than one average megawatt of electricity (8,760,000 kWh/year) at any one site in the prior calendar year.¶

(24) "Market transformation" means a lasting structural or behavioral change in the marketplace that increases the adoption of energy efficient technologies and practices.¶

(25) "Municipal electric utility" means an electric distribution utility owned and operated by or on behalf of a city.¶

(26) "New" as it refers to energy conservation, and market transformation ~~and low-income weatherization~~ means measures, projects or programs that are installed or implemented after the date direct access is offered by an electric company, with the exception that "new energy conservation" also includes expenditures by large electricity consumers eligible ~~for~~ to self-directing public purpose charges that meet the following conditions:¶

(a) Self-directing consumers may not claim a public purpose credit for energy conservation measures that were started prior to July 23, 1999. For energy conservation measures that were started on or after July 23, 1999, but prior to the implementation of direct access, a self-directing consumer may claim a public purpose credit if either of the following conditions is met:¶

(A) The energy conservation measure did not receive funding from an electric company conservation program and was certified by the Oregon Department of Energy after July 23, 1999; or¶

(B) the energy conservation measure did receive funding from an electric company conservation program and the self-directing consumer repaid the amount of such funding (cost of audit and incentives plus interest) no later than 90 days following the implementation of direct access or the date they request preliminary certification under these rules. A self-directing consumer shall not be required to repay the amount of any energy conservation audit related to a conservation measure if the audit was completed prior to January 1, 2000. The cost of an audit that identifies multiple energy conservation measures shall be prorated among such measures.¶

(b) For purposes of this subsection, "started" means that a contract has been executed to install or implement an energy conservation measure.¶

(27) "New renewable energy resource" means a renewable energy resource project or a new addition to an

existing renewable energy resource project, or the electricity produced by the project, that was not in operation on or before January 1, 2000. "New renewable energy resource" does not include any portion of a renewable energy resource project under contract to the Bonneville Power Administration on or before January 1, 2000.¶

(28) "Nonresidential consumer" means a retail electricity consumer that is not a residential consumer.¶

(29) "Oregon Department of Energy" means the Oregon Department of Energy, an agency of the State of Oregon, created under Oregon Revised Statute (ORS) 469.030.¶

(30) "One average megawatt" means 8,760,000 kilowatt-hours of electricity per year.¶

(31) "People's utility district" has the meaning given that term in ORS 261.010.¶

(32) "Precertification of new energy conservation projects" means written notification from the Oregon Department of Energy to a large electricity consumer that certifies that a proposed energy conservation project will be eligible for a certificate of qualified expenditure if it is installed as described in the retail electricity consumer's application for precertification.¶

(33) "Precertification of new renewable energy resource purchases" means written notification from the Oregon Department of Energy to a large electricity consumer that certifies that a proposed renewable energy resource purchase will be eligible for a certificate of qualified expenditure, if contracts of commitment to purchase are established as described in the retail electricity consumer's application for precertification.¶

(34) "Public purpose charge" is an amount equal to ~~3~~three percent of the total revenues billed to large consumers for electricity services, distribution, ancillary services, metering, billing, transition charges and other types of costs that were included in electric rates on or after March 1, 2002 by electric utilities offering direct access to their large electricity consumers, except for an aluminum plant that is a retail electricity consumer and uses more than 100 average megawatts per year where the amount is equal to ~~1~~one percent of the total revenues billed.¶

(35) "Qualifying expenditures" means those expenditures for new energy conservation measures or projects that have a simple payback period of not less than one year and not more than 10 years and expenditures for the above-market costs of new renewable energy resources.¶

~~(36 or renewable energy certificates, also referred to as "Green Tags."¶~~

(36) A Renewable Energy Certificate, also referred to as a REC or "Green Tag," represents one megawatt hour (MWh) of renewable energy generation delivered to the grid. RECs represent the environmental, economic and social attributes of the power produced from renewable energy projects and may be traded independently of transactions for the associated electricity.¶

(37) "Renewable energy resources" means:¶

- (a) Electricity-generation facilities fueled by wind, waste, solar or geothermal power or by low-emission nontoxic biomass based on solid organic fuels from wood, forest and field residues;¶
- (b) Dedicated energy crops available on a renewable basis;¶
- (c) Landfill gas and digester gas; or¶
- (d) Hydroelectric facilities located outside protected areas as defined by federal law in effect on July 23, 1999.¶

(378) "Retail electricity consumer" means the end user of electricity for specific purposes such as heating, lighting or operating equipment and includes all end users of electricity served through the distribution system of an electric utility on or after January 1, 2000, whether or not each end user purchases the electricity from the electric utility. Retail electricity consumers include any direct service industrial consumer that purchases electricity without distribution services from the electric utility.¶

~~(389) "Self-directing consumer" means a retail electricity consumer using more than one average megawatt of electricity at any one site for the twelve billing months preceding January 15 of each year or an aluminum plant using more than 100 average megawatts of electricity for the twelve billing months preceding January 15 of each year. Consumers in electric utility service territories qualify as self-directing if they have large electricity consumer having a certification of qualified expenditure from the Oregon Department of Energy for new energy conservation or, new renewable energy resources.¶~~

~~(39 or renewable energy certificates or "Green Tags."¶~~

(40) "Site" means:¶

- (a) Buildings and related structures that are interconnected by facilities owned by a single retail electricity

consumer and that are served through a single electric meter; or¶¶

(b) a single contiguous area of land containing buildings or other structures that are separated by not more than 1,000 feet, such that:¶¶

(A) Each building or structure included in the site is no more than 1,000 feet from at least one other building or structure in the site;¶¶

(B) Each building or structure included in the site, and land containing and connecting buildings and structures in the site, are owned by a single retail electricity consumer who is billed for electricity use at the buildings or structures; and¶¶

(C) Land shall be considered contiguous even if there is an intervening public or railroad right of way, provided that rights of way land on which municipal infrastructure facilities exist (such as street lighting, sewerage transmission, and roadway controls) shall not be considered contiguous.¶¶

(401) "Statement of Eligibility" means a written declaration by an authorized officer of a large electricity consumer's firm that it meets the definition of a large electricity consumer under these rules and that it intends to comply with the requirements contained in these rules for self-direction and reporting of public purpose charges for a given site.¶¶

(412) "System" means any individual process or series of equipment contributing to energy end use in a large electricity consumer's site. A system may include heating, ventilating and air conditioning, domestic hot water, lighting, or a specific industrial process such as air compression, refrigeration, shredding, forging, or other such specific process described by the large electricity consumer.

Statutory/Other Authority: ORS 469.040, ORS 469.165, ORS 756.040, ORS 757.600 - 757.687

Statutes/Other Implemented: ORS 756.040, ORS 757.600 - 757.687

AMEND: 330-140-0030

RULE SUMMARY: The proposed rule changes would no longer require large electricity consumers to apply for self-direction eligibility every year, and would remove obsolete rule language from program start-up.

CHANGES TO RULE:

330-140-0030

Eligibility as a Self-Directing Consumer ¶

(1) Oregon retail electricity consumers using more than one average megawatt of electricity at one site in the ~~twelve billing months preceding January 15 of each year, beginning with 1999, prior year~~ may apply in writing to the Oregon Department of Energy to qualify to self-direct a portion of their public purpose charges ~~starting October 1, 2001. Application must be made each year that an electricity consumer wants eligibility as a self-directing consumer.~~ ¶

(2) The request for eligibility as a self-directing consumer shall include a statement that electric energy consumption at the site is over one average megawatt for the ~~twelve billing months preceding January 15 of the~~ year preceding the date of request for ~~initial or renewal of~~ eligibility. ¶

(3) The written request for eligibility as a self-directing consumer shall be on a form provided by Oregon Department of Energy and include but not be limited to the following: name of the Oregon business or organization as a customer of record for the customer's electric utility; description of the site; site street and mailing addresses; business or organization contact; ~~calendar~~ beginning and end dates of year for which electric energy consumption qualifies the business or organization; electric energy consumption at the site for the given ~~calendar~~ prior year; name of the electric distribution utility; name of electricity service supplier(s); account numbers at the site for the electric distribution utility and each energy service supplier; and electric meter numbers at the site. The written application for eligibility to self-direct public purpose charges and statement of eligibility shall be signed and dated by a representative of the business or organization authorized by the highest ranking officer of the business or organization. ¶

(4) Retail electricity consumers requesting eligibility from the Oregon Department of Energy under this rule shall retain evidence of energy consumption from their energy service suppliers and distribution utility used to qualify for self-direction. ¶

~~(5) Retail electricity consumers are eligible for self-direction for the one calendar year following the year for which the Oregon Department of Energy has based its approval of their request for eligibility, regardless of the electricity purchases at that site in the following calendar year.~~ ¶

~~(6)~~ Retail electricity consumers that receive Oregon Department of Energy approval of the request for eligibility for self-direction for a specific site may submit applications for precertification of new energy conservation projects and new renewable energy resource purchases for that site and certification of qualified expenditure for renewable energy certificates or Green Tags. ¶

~~(7)~~ The Oregon Department of Energy may request documentation to determine the validity or accuracy of any request for eligibility to self-direct public purpose charges. ¶

~~(8)~~ The Oregon Department of Energy shall notify the large electricity consumer's electric distribution utility in writing that the large electricity consumer is recognized as eligible for self-direction within 30 days of receipt of the request.

Statutory/Other Authority: ORS 469.040, ORS 756.040, ORS 757.600 - 757.687

Statutes/Other Implemented: ORS 756.040, ORS 757.600 - 757.687

AMEND: 330-140-0040

RULE SUMMARY: The proposed rule change would add a requirement for applicants to include information about prior year electricity usage with their application for precertification.

CHANGES TO RULE:

330-140-0040

Precertification of New Energy Conservation Projects ¶

- (1) Retail electricity consumers approved as eligible to become self-directing consumers by the Oregon Department of Energy may submit applications for precertification of new energy conservation projects.¶
- (2) Retail electricity consumers shall apply directly to the Oregon Department of Energy for precertification of new energy conservation project investments that have a simple payback of greater than one year and less than ten years on a form supplied by the Oregon Department of Energy.¶
 - (a) Information submitted on the form shall include but not be limited to: the name of the retail electricity consumer; a description of the site; a description of the electricity conservation project; detail of the costs of the electricity conservation project; estimated electricity savings from the project; and calculations that support or demonstrate the electricity savings and simple payback of the project.¶
 - (b) On the application, the applicant shall: answer a "Yes/No" question whether the site's prior year electricity usage is greater than one average megawatt; include site electric usage in kWh from the prior year; and attach supporting documentation in the form of a spreadsheet or equivalent from the utility showing the monthly usage amounts, for all meters associated with that site, that sum to the prior year usage. Sites that do not have greater than one average megawatt prior year usage are not eligible to self-direct their public purpose charge.¶
- (3) The Oregon Department of Energy shall determine the eligible costs for the energy conservation project.¶
- (4) Precertification of the cost eligible for credit and a description of the new energy conservation project shall be approved or denied in writing by the Oregon Department of Energy within 30 days of the receipt of a complete application.

Statutory/Other Authority: ORS 469.040, ORS 756.040, ORS 757.600 - 757.687

Statutes/Other Implemented: ORS 756.040, ORS 757.600 - 757.687

AMEND: 330-140-0050

RULE SUMMARY: The proposed rule changes would add a requirement for applicants to include information about prior year electricity usage with their application for precertification, and would make minor changes to wording to ensure consistency of terminology throughout program rules.

CHANGES TO RULE:

330-140-0050

Precertification of New Renewable Energy Resource Purchase ¶

(1) Retail electricity consumers approved as eligible to become self-directing consumers by the Oregon Department of Energy may submit applications for precertification of new renewable energy resource purchases.¶

(2) Retail electricity consumers shall apply directly to the Oregon Department of Energy for precertification of new renewable energy resource purchases on a form supplied by the Oregon Department of Energy.¶

(a) Information submitted on the form shall include but not be limited to: the name of the electricity consumer; a description of the site; a description of the new renewable energy resource to be purchased; the electricity consumer's market price for electricity from conventional sources; costs of the new renewable energy resource; estimated electricity to be purchased from the new renewable energy resource; length of time of a proposed purchase agreement; method of certifying that the renewable energy resource purchased has not been duplicatively sold to other parties either in whole or part; and, any contract terms that would otherwise affect the cost or amount of new renewable energy resource purchased.¶

(b) On the application, the applicant shall: answer a "Yes/No" question whether the site's prior year electricity usage is greater than one average megawatt; include site electric usage in kWh from the prior year; and attach supporting documentation in the form of a spreadsheet or equivalent from the utility showing the monthly usage amounts, for all meters associated with that site, that sum to the prior year usage. Sites that do not have greater than one average megawatt prior year usage are not eligible to self-direct their public purpose charge.¶

(3) The Oregon Department of Energy shall determine if the above-market cost of the proposed purchase of renewable energy resources, described in the application, are to be precertified as eligible self-direction costs.¶

(4) Precertification of the cost eligible for a credit and a description of the new renewable energy resource purchase shall be approved or denied in writing by the Oregon Department of Energy within 30 days of the receipt of a complete application.

Statutory/Other Authority: ORS 469.040, ORS 756.040, ORS 757.600 - 757.687

Statutes/Other Implemented: ORS 756.040, ORS 757.600 - 757.687

AMEND: 330-140-0060

RULE SUMMARY: The proposed rule changes would: add a requirement that a project must be completed and operational before the consumer receives a certification of qualified expenditure from ODOE, which has been understood, but not stated explicitly; update obsolete reference to the state Office of Energy; clarify that qualified expenditures includes administrative fees paid to ODOE; and make minor changes to wording to ensure consistency of terminology throughout program rules.

CHANGES TO RULE:

330-140-0060

Certification of Qualifying Expenditure for New Energy Conservation Projects ¶

(1) Once the project has been completed and is operational, and the costs, or portion of the costs identified in the precertification as a component eligible for certification as an individual expense for a project, are expended, the retail electricity consumer may apply to the Oregon Department of Energy for a certificate~~ion~~ of qualified expenditure on a form provided by the ~~Office~~Oregon Department of Energy.¶

(2) Proof of amount paid must accompany the application for certificate~~ion~~ of qualified expenditure.¶

(a) Proof of purchase for projects costing less than \$50,000 may include canceled checks, credit card statements, and binding contracts or agreements.¶

(b) Projects costing \$50,000 and more shall have an independent certified public accountant attest to the cost of the project.¶

(3) A certificate~~ion~~ of qualified expenditure for all or part of the cost of precertified new energy conservation project(s) shall be approved or denied by the Oregon Department of Energy in writing within 30 days of the receipt of a complete application. ~~A~~Certificate~~ion~~ of qualified expenditure may be issued for a portion of the cost of a new energy conservation project(s) that is an individual cost component or project phase defined in the preliminary certificate application and approved in the preliminary certificate. Qualifying expenditures include fees paid to the Oregon Department of Energy for administering the self-direction program.

Statutory/Other Authority: ORS 469.040, ORS 469.165, ORS 756.040, ORS 757.600 - 757.687

Statutes/Other Implemented: ORS 756.040, ORS 757.600 - 757.687

AMEND: 330-140-0070

RULE SUMMARY: The proposed rule changes would: correct an inaccurate reference to renewable energy certificates and add a reference to "Green Tags" to be consistent with terminology used on the ODOE self-direction program webpage and by self-directing consumers; clarify that qualified expenditures include administrative fees paid to ODOE; and make minor changes to wording to ensure consistency of terminology throughout program rules.

CHANGES TO RULE:

330-140-0070

Certification of Qualifying Expenditure for New Renewable Energy Resources ¶¶

(1) Retail electricity consumers whose new renewable energy resource purchases have received precertification from the Oregon Department of Energy may apply for a certificateion of qualified expenditure on a form provided by the Oregon Department of Energy.¶¶

(2) A signed contract to purchase or receipt(s) for purchase of renewable resourceenergy certificates or RECs, sometimes referred to as "Green Tags," for new renewable energy describing the amount to be paid and the length of the agreement must accompany the application for certificateion of qualified expenditure. On the application, the applicant shall: answer a "Yes/No" question whether the site's prior year electricity usage is greater than one average megawatt; include site electric usage in kWh from the prior year; and attach supporting documentation in the form of a spreadsheet or equivalent from the utility showing the monthly usage amounts, for all meters associated with that site, that sum to the prior year usage. Sites that do not have greater than one average megawatt prior year usage are not eligible to self-direct their public purpose charge.¶¶

(3) Proof of amount paid must accompany the application for certificateion of qualified expenditure for constructed new renewable energy resource projects.¶¶

(4) Proof of purchase for constructed projects costing less than \$50,000 may include canceled checks, credit card statements, and binding contracts or agreements.¶¶

(5) Constructed project costs of \$50,000 and more shall have an independent certified public accountant attest to the cost of the project.¶¶

(6) Certificateion of qualified expenditure shall be approved or denied by the Oregon Department of Energy within 30 days of the receipt of a complete application. Qualifying expenditures include fees paid to the Oregon Department of Energy for administering the self-direction program.¶¶

(7) The certificateion of qualified expenditure shall describe the term for which a contracted new renewable energy resource purchase is eligible for credit against public purposes charges owed.

Statutory/Other Authority: ORS 469.040, ORS 469.165, ORS 756.040, ORS 757.600 - 757.687

Statutes/Other Implemented: ORS 756.040, ORS 757.600 - 757.687

AMEND: 330-140-0080

RULE SUMMARY: The proposed rule changes would make minor changes to wording to ensure consistency of terminology throughout program rules, and would clarify that a self-directing consumer whose electricity consumption falls below the one average megawatt annual threshold may continue to use carried over credits for an existing project until those credits are exhausted, but is not eligible to be precertified for new projects or new Green Tag purchases until the site's average annual electricity usage again meets program eligibility requirements.

CHANGES TO RULE:

330-140-0080

Claiming a Public Purpose Charge Credit ¶

- (1) Large electricity consumers who are eligible for direct access, starting with the date of direct access, may claim credits against public purposes charges owed.¶
- (2) Credits claimed may not exceed the amount of cost documented on certificate(s) of qualifying expenditure for that self-directing consumer's site. When qualifying expenditures are certified they may be claimed as follows:¶
 - (a) Credits in excess of the amount owed for a given month's conservation or renewable energy resource public purpose charges shall be available for future credit use (carried forward) for up to ten years but not past February 29, 2012 as long as the obligation to pay those public purpose charges exists. Should the electric usage at a self-directing consumer's site fall below one average megawatt for the prior year, the self-directing consumer may continue to claim credits which have been documented by a certification of qualified expenditure and that have been carried forward until the remaining unclaimed balance is zero. A self-directing consumer will not be eligible to submit new applications for precertification of expenditures for a new energy conservation project, renewable energy resource project, or Green Tag purchase until such a time as the site's electric usage for the prior year is greater than one average megawatt.¶
 - (b) Credits in excess of the amount owed for a specific site may be applied to public purpose charges at other sites owned by the electricity consumer, its subsidiaries or affiliate firms in the same distribution utility service territory provided the site is also eligible as a self-directing consumer under these rules.¶
- (3) The maximum credit against public purpose charges owed by a self-directing consumer shall not exceed the following:¶
 - (a) The maximum self-direction credit for sites in electric company service territories shall be 73.8 percent of the public purpose charge owed. Self-direction credit for the new energy conservation portion shall not exceed 56.7 percent of the public purpose charge owed and 17.1 percent for the new renewable energy resource purchase portion; or¶
 - (b) The maximum credit for sites in consumer owned electric service territory shall be 68 percent of the first 3 percent public purpose charges for new energy conservation. Any remaining amount, up to the maximum of the first 3 percent public purpose charge, is limited to the portion of the public purpose charge billed for new market transformation or above market costs of purchasing renewable energy resource purchases.¶
 - (c) The maximum credit for at an aluminum plant site that uses more than 100 average megawatts of electricity per year shall be 68 percent of one percent of the total revenue from the sale of electricity to the retail electricity consumer aluminum plant for new energy conservation projects and 17.1 percent for new renewable resource purchases of 1 of one percent of the total revenue from the sale of electricity to the retail electricity consumer, where the electric companies service territory abuts the greatest percentage of the site of the aluminum plant that uses more than 100 average megawatts of electricity per year aluminum plant for new renewable energy resource purchases.¶
- (4) Large electricity consumers, who have received recognition that their site is eligible for self-direction with a certificate of qualified expenditure for credit against public purpose charges issued by the Oregon Department of Energy, may request that their electric distribution utility or energy service supplier apply their credit against public purpose charges owed.¶
- (5) To remain eligible to self-direct public purpose charges, large electricity consumers shall pay on a monthly

basis any balance of public purpose charges owed to their electric distribution utility or energy service supplier.

Statutory/Other Authority: ORS 469.040, ORS 756.040, ORS 757.600 - 757.687

Statutes/Other Implemented: ORS 756.040, ORS 757.600 - 757.687

AMEND: 330-140-0140

RULE SUMMARY: The proposed rule changes would clarify that self-directing consumers must pay the estimated program administrative costs at the time of making a precertification request, not to exceed four percent of project costs. Additionally, ODOE would be required to periodically review the annual cost of providing services and fees collected under the self-direction program, and would be authorized to periodically revise the fee percentage.

CHANGES TO RULE:

330-140-0140

Administrative Cost Recovery ¶¶

~~(1) Large electricity consumers applying to be eligible as self-directing consumers shall pay actual cost of service incurred by~~The costs of administering the self-direction program shall be paid out of the funds collected through the public purpose charge and directed to the Oregon Department of Energy for services provided for establishing a self-direction account, reviewing request for self direction, and the electricity consumer's portion of the cost for any services or supplies for such administration.¶¶

~~(2) At the request for services by the self-directing consumer, as the state agency administering the program. The Oregon Department of Energy shall collect fees from eligible self-directing consumers at the time they submit applications for the following: precertification of new energy conservation projects, precertification of new renewable energy resource purchases, and certification of qualified expenditure for renewable energy certificates or Green Tags. Applications will not be considered complete until payment of fees is received by the Oregon Department of Energy may estimate and request payment for the cost of service for self directi. The fee shall be a fixed percentage of: the estimated project costs for new energy con-services provided. The estimated cost of service provided shall not exceed 4 percent of proposed project costs. The self-directing consumer shall submit payment of the estimated cost of certification services with all applications for precertification. An application for preliminary certification will not be considered complete without payment. The Oregon Department of Energy shall review~~ation projects, the estimated above market costs for new renewable energy resource purchases, or the actual contract cost for renewable energy certificates or Green Tags.¶¶

~~(2) The Oregon Department of Energy shall periodically review the actual and anticipated cost of administering the self-direction program, including all direct and indirect costs, as well as the actual and anticipated sum of fees collected under the program. The Oregon Department of Energy may revise the fee percentage as needed to ensure full recovery of self-direction administration costs. The fixed percentage fee shall not exceed four percent of: the estimated project costs for new energy conservation projects, the estimated above market costs for new renewable energy resource purchases, or the actual cost of service annually to assure costs of opntract cost for renewable energy certificates or Green Tags. Fees paid by eligible self-directing consumers are eligible costs to be included in final ceration are receivecates of qualified expenditures.~~

Statutory/Other Authority: ORS 469.040, ORS 469.165, ORS 756.040, ORS 757.600 - 757.687

Statutes/Other Implemented: ORS 756.040, ORS 757.600 - 757.687