

Appendix A  
Oregon Revised Statute  
276.900-915

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Chapter 276 — Public Facilities  
2009 EDITION

STATE AGENCY FACILITY ENERGY DESIGN

**276.900 Policy.** It is the policy of the State of Oregon that facilities to be constructed or purchased by authorized state agencies be designed, constructed, renovated and operated so as to minimize the use of energy resources and to serve as models of energy efficiency. [1979 c.734 §1; 1989 c.556 §1; 2001 c.683 §1; 2008 c.26 §1]

**Note:** 276.900 to 276.915 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 276 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**276.905 Definitions for ORS 276.900 to 276.915.** As used in ORS 276.900 to 276.915, unless the context requires otherwise:

(1) "Alternative energy system" means an environmentally sound energy system that uses power derived from renewable resources including, but not limited to, the sun, wind, geothermal sources and heat recovery.

(2) "Authorized state agency" means a state agency, board, commission, department or division that is authorized to finance the construction, purchase or renovation of a facility that is or will be used by the State of Oregon.

(3) "Cost-effective" means that an energy resource, facility or conservation measure during its life cycle results in delivered power costs to the ultimate consumer no greater than the comparable incremental cost of the least cost alternative new energy resource, facility or conservation measure. Cost comparison shall include, but need not be limited to:

- (a) Cost escalations and future availability of fuels;
- (b) Waste disposal and decommissioning costs;
- (c) Transmission and distribution costs;
- (d) Geographic, climatic and other differences in the state; and
- (e) Environmental impact.

(4) "Energy conservation measure" means a measure primarily designed to reduce the use of energy resources in a facility.

(5) “Energy consumption analysis” means the evaluation of all energy systems and components by demand and type of energy including the internal energy load imposed on a major facility by its occupants, equipment and components and the external energy load imposed on a major facility by the climatic conditions of its location. “Energy consumption analysis” includes, but is not limited to:

(a) The comparison of a range of alternatives that is likely to include all reasonable, cost-effective energy conservation measures and alternative energy systems;

(b) The simulation of each system over the entire range of operation of a major facility for a year’s operating period;

(c) The evaluation of energy consumption of component equipment in each system considering the operation of such components at other than full or rated outputs; and

(d) The consideration of alternative energy systems.

(6) “Energy savings performance contract” has the meaning given that term in ORS 279A.010.

(7) “Energy systems” means all utilities, including but not limited to heating, cooling, ventilation, lighting and the supply of domestic hot water.

(8) “Facility” means a building or other structure owned or controlled by an authorized state agency that is used or occupied by employees of the authorized state agency or that is used for conducting public business.

(9) “Major facility” means a facility that has 10,000 square feet or more of usable floor space.

(10) “Renovation” means an addition to, alteration of or repair of a facility that adds to or alters the facility’s energy systems, provided that the affected energy systems account for 50 percent or more of the facility’s total energy use. [1979 c.734 §2; 1987 c.320 §155; 1989 c.556 §2; 2001 c.683 §2; 2008 c.26 §2]

**Note:** See note under 276.900.

**276.910 Use of fuel cell power systems in state agency facilities; rules.** (1) Before constructing or renovating a major facility, an authorized state agency shall, after comparing various equipment options and to the greatest extent practicable, use fuel cell power systems for emergency backup power applications and for critical power applications in lieu of other equipment options.

(2)(a) The State Department of Energy shall, in consultation with the Oregon Department of Administrative Services, adopt rules establishing criteria for the comparison of fuel cell power systems and other equipment options required by subsection (1) of this section.

(b) Criteria to be established under this subsection must address:

(A) The impact of emissions, including but not limited to nitrous oxide, sulfur oxide, carbon monoxide, carbon dioxide and particulates, from various equipment options, on the environment, regardless of whether the equipment is installed indoors or installed outdoors;

(B) Life cycle costs, including but not limited to acquisition costs, installation and commissioning costs, siting and permitting costs, maintenance costs and fueling and decommissioning costs; and

(C) The complexity of equipment options and any ancillary equipment. [2009 c.748 §6]

**Note:** 276.910 becomes operative April 1, 2010. See section 9, chapter 748, Oregon Laws 2009.

**Note:** 276.910 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 276 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**276.915 Energy design requirements; rules; fees; waiver.** (1) An authorized state agency may construct or renovate a facility only if the authorized state agency determines that the design incorporates all reasonable cost-effective energy conservation measures and alternative energy systems. The determination by the authorized state agency shall include consideration of indoor air quality issues and operation and maintenance costs.

(2) Whenever an authorized state agency determines that a major facility is to be constructed or renovated, the authorized state agency shall cause to be included in the design phase of the construction or renovation a provision that requires an energy consumption analysis to be prepared for the facility under the direction of a professional engineer or licensed architect or under the direction of a person that is prequalified in accordance with this section. The authorized state agency and the State Department of Energy shall agree to the list of energy conservation measures and alternative energy systems that the energy consumption analysis will include. The energy consumption analysis and facility design shall be delivered to the State Department of Energy during the design development phase of the facility design. The State Department of Energy shall review the energy consumption analysis and forward its findings to the authorized state agency within 10 working days after receiving the energy consumption analysis, if practicable.

(3) The State Department of Energy, in consultation with authorized state agencies, shall adopt rules to carry out the provisions of ORS 276.900 to 276.915. These rules shall:

(a) Include a simplified and usable method for determining which energy conservation measures and alternative energy systems are cost-effective. The method shall reflect the energy costs of the utility serving the facility.

(b) Prescribe procedures for determining if a facility design incorporates all reasonable cost-effective energy conservation measures and alternative energy systems.

(c) Establish fees through which an authorized state agency will reimburse the State Department of Energy for the department's review of energy consumption analyses and facility designs and the department's reporting tasks. The fees imposed may not exceed 0.2 percent of the capital construction cost of the facility and must be included in the energy consumption analysis required in subsection (2) of this section. The State Department of Energy may provide for a waiver of fees and reviews if the authorized state agency demonstrates that the facility will be designed and constructed in a manner that incorporates only cost-effective energy conservation measures or in a manner that exceeds the energy conservation provisions of the state building code by 20 percent or more.

(d) Periodically define highly efficient facilities. A facility constructed or renovated after June 30, 2001, shall exceed the energy conservation provisions of the state building code by 20 percent or more, unless otherwise required by rules adopted under this section.

(e) Establish guidelines for implementing subsection (4) of this section.

(f) Establish guidelines for incorporating energy efficiency requirements into lease agreements of 10 or more years to be phased in as current lease agreements expire or as new lease agreements are entered into, allowing reasonable time for the owner to implement the requirements of this section.

(g) Establish criteria by which the State Department of Energy determines that a person is prequalified to perform work in accordance with this section.

(4) Before June 30, 2015, an authorized state agency shall reduce the total amount of energy the authorized state agency uses in the authorized state agency's owned facilities by at least 20 percent from a baseline amount the State Department of Energy determines by rule based on usage in calendar year 2000.

(5) An authorized state agency shall report annually to the State Department of Energy concerning energy use in the authorized state agency's facilities. The State Department of Energy shall specify by rule the form and content of and deadlines for the reports.

(6) An authorized state agency that fails to achieve and maintain a 20 percent reduction in energy use on and after June 30, 2015, shall submit biennial energy conservation plans to the State Department of Energy. The State Department of Energy shall specify by rule the form and content of and deadlines for the energy conservation plans.

(7) The State Department of Energy by rule may require mandatory prequalification as a condition for a person to submit a bid or proposal to perform the following work for an authorized state agency:

(a) Direct an energy consumption analysis for an authorized state agency under subsection (2) of this section, unless the person is a professional engineer or architect;

(b) Enter into an energy savings performance contract; or

(c) Perform energy audits, building commissioning, monitoring and verification services and other services related to the operation and management of a facility's energy systems, except for architectural, engineering and land surveying services as defined in ORS 279C.100.

(8) The State Department of Energy may recover from authorized state agencies the costs associated with administering the provisions of this section, including costs associated with adopting rules, maintaining a state energy use database and prequalifying a person under this section.

(9) The State Department of Energy, the Oregon Department of Administrative Services and the Oregon University System shall jointly prepare a biennial report summarizing the progress toward achieving the goals of this section. The biennial report shall be made available to the public. [1979 c.734 §3; 1989 c.556 §3; 1995 c.551 §18; 2001 c.683 §3; 2008 c.26 §3; 2009 c.259 §24]

**Note:** See note under 276.900.