

Chapter 469A

2011 EDITION

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DEFINITIONS

469A.005 Definitions. As used in ORS 469A.005 to 469A.210:

(1) “Banked renewable energy certificate” means a bundled or unbundled renewable energy certificate that is not used by an electric utility or electricity service supplier to comply with a renewable portfolio standard in a calendar year and that is carried forward for the purpose of compliance with a renewable portfolio standard in a subsequent year.

(2) “BPA electricity” means electricity provided by the Bonneville Power Administration, including all electricity from the Federal Columbia River Power System hydroelectric projects and other electricity acquired by the Bonneville Power Administration by contract.

(3) “Bundled renewable energy certificate” means a renewable energy certificate for qualifying electricity that is acquired:

(a) By an electric utility or electricity service supplier by a trade, purchase or other transfer of electricity that includes the certificate that was issued for the electricity; or

(b) By an electric utility by generation of the electricity for which the certificate was issued.

(4) “Compliance year” means the calendar year for which the electric utility or electricity service supplier seeks to establish compliance with the renewable portfolio standard applicable to the utility or supplier in the compliance report submitted under ORS 469A.170.

(5) “Consumer-owned utility” means a municipal electric utility, a people’s utility district organized under ORS chapter 261 that sells electricity or an electric cooperative organized under ORS chapter 62.

(6) “Electric company” has the meaning given that term in ORS 757.600.

(7) “Electric utility” has the meaning given that term in ORS 757.600.

(8) “Electricity service supplier” has the meaning given that term in ORS 757.600.

(9) “Qualifying electricity” means electricity described in ORS 469A.010.

(10) “Renewable energy source” means a source of electricity described in ORS 469A.025.

(11) “Retail electricity consumer” means a retail electricity consumer, as defined in ORS 757.600, that is located in Oregon.

(12) “Unbundled renewable energy certificate” means a renewable energy certificate for qualifying electricity that is acquired by an electric utility or electricity service sup-

plier by trade, purchase or other transfer without acquiring the electricity for which the certificate was issued. [2007 c.301 §1]

QUALIFYING ELECTRICITY

469A.010 Qualifying electricity. (1) Except as provided in this section, and subject to ORS 469A.135, electricity generated from a renewable energy source may be used to comply with a renewable portfolio standard only if the facility that generates the electricity meets the requirements of ORS 469A.020.

(2)(a) Any electricity that the Bonneville Power Administration has designated as environmentally preferred power, or has given a similar designation for electricity generated from a renewable resource, may be used to comply with a renewable portfolio standard.

(b) Any electricity generated from a renewable energy source by a facility may be used to comply with a renewable portfolio standard, subject to ORS 469A.135, if the facility:

(A) Burned coal as a fuel source;

(B) Completely ceases to burn coal as a fuel source; and

(C) Converts to a renewable energy source after January 1, 2012.

(3) The Legislative Assembly finds that hydroelectric energy is an important renewable energy source and electricity from hydroelectric generators may be used to comply with a renewable portfolio standard as provided in ORS 469A.005 to 469A.210. [2007 c.301 §2; 2011 c.225 §1]

469A.020 Qualifying electricity; age of generating facility. (1) Except as provided in this section, electricity may be used to comply with a renewable portfolio standard only if the electricity is generated by a facility that becomes operational on or after January 1, 1995.

(2) Electricity from a generating facility, other than a hydroelectric facility, that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the electricity is attributable to capacity or efficiency upgrades made on or after January 1, 1995.

(3) Electricity from a hydroelectric facility that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the electricity is attributable to efficiency upgrades made on or after January 1, 1995. If an efficiency upgrade is made to a Bonneville Power Administration facility, only that portion of the electricity generation attributable to Oregon’s share of the electricity may be used

to comply with a renewable portfolio standard.

(4) Subject to the limit imposed by ORS 469A.025 (5), electricity from a hydroelectric facility that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the facility is certified as a low-impact hydroelectric facility on or after January 1, 1995, by a national certification organization recognized by the State Department of Energy by rule, and if the facility is either:

(a) Owned by an electric utility; or

(b) Not owned by an electric utility and located in Oregon and licensed by the Federal Energy Regulatory Commission under the Federal Power Act, 16 U.S.C. 791a et seq., or exempt from such license.

(5)(a) Electricity from a generating facility located in this state that uses biomass and that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the facility meets the requirements of the federal Public Utility Regulatory Policies Act of 1978 (P.L. 95-617) on March 4, 2010, regardless of whether the facility qualifies under the requirements of the Public Utility Commission.

(b) Renewable energy certificates derived from electricity generated by a facility that qualifies under paragraph (a) of this subsection may not be used to comply with a renewable portfolio standard before January 1, 2026. However, renewable energy certificates issued before January 1, 2026, may be banked pursuant to ORS 469A.005 to 469A.210 for use on or after January 1, 2026.

(6) A facility located in this state that generates electricity from direct combustion of municipal solid waste and that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard for up to 11 average megawatts of electricity generated per calendar year. Renewable energy certificates derived from electricity generated by a facility described in this subsection may not be used to comply with a renewable portfolio standard before January 1, 2026. However, renewable energy certificates issued before January 1, 2026, may be banked pursuant to ORS 469A.005 to 469A.210 for use on or after January 1, 2026. [2007 c.301 §3; 2010 c.17 §1; 2010 c.71 §1]

469A.025 Renewable energy sources; rules. (1) Electricity generated utilizing the following types of energy may be used to comply with a renewable portfolio standard:

(a) Wind energy.

(b) Solar photovoltaic and solar thermal energy.

(c) Wave, tidal and ocean thermal energy.

(d) Geothermal energy.

(2) Except as provided in subsection (3) of this section, electricity generated from biomass and biomass by-products may be used to comply with a renewable portfolio standard, including but not limited to electricity generated from:

(a) Organic human or animal waste;

(b) Spent pulping liquor;

(c) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce uncharacteristic stand replacing wildfire risk;

(d) Wood material from hardwood timber grown on land described in ORS 321.267 (3);

(e) Agricultural residues;

(f) Dedicated energy crops; and

(g) Landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters or municipal solid waste.

(3) Electricity generated from the direct combustion of biomass may not be used to comply with a renewable portfolio standard if any of the biomass combusted to generate the electricity includes wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate.

(4) Electricity generated by a hydroelectric facility may be used to comply with a renewable portfolio standard only if:

(a) The facility is located outside any protected area designated by the Pacific Northwest Electric Power and Conservation Planning Council as of July 23, 1999, or any area protected under the federal Wild and Scenic Rivers Act, P.L. 90-542, or the Oregon Scenic Waterways Act, ORS 390.805 to 390.925; or

(b) The electricity is attributable to efficiency upgrades made to the facility on or after January 1, 1995.

(5)(a) Up to 50 average megawatts of electricity per year generated by an electric utility from certified low-impact hydroelectric facilities described in ORS 469A.020 (4)(a) may be used to comply with a renewable portfolio standard, without regard to the number of certified facilities operated by the electric utility or the generating capacity of those facilities. A hydroelectric facility described in this paragraph is not subject to the requirements of subsection (4) of this section.

(b) Up to 40 average megawatts of electricity per year generated by certified low-impact hydroelectric facilities described in ORS 469A.020 (4)(b) may be used to comply with a renewable portfolio standard, without

regard to the number of certified facilities or the generating capacity of those facilities. A hydroelectric facility described in this paragraph is not subject to the requirements of subsection (4) of this section.

(6)(a) Direct combustion of municipal solid waste in a generating facility located in this state may be used to comply with a renewable portfolio standard. The qualification of a municipal solid waste facility for use in compliance with a renewable portfolio standard has no effect on the qualification of the facility for a tax credit under ORS 469B.130 to 469B.169.

(b) The total amount of electricity generated in this state by direct combustion of municipal solid waste by generating facilities that became operational in this state on or after January 1, 1995, may not exceed nine average megawatts per year for the purpose of complying with a renewable portfolio standard.

(7) Electricity generated from hydrogen gas, including electricity generated by hydrogen power stations using anhydrous ammonia as a fuel source, may be used to comply with a renewable portfolio standard if:

(a) The electricity is derived from:

(A) Any source of energy described in subsection (1) or (2) of this section; or

(B) A hydroelectric facility that complies with subsection (4) of this section and that is certified as a low-impact hydroelectric facility as described in ORS 469A.020 (4); and

(b) The output of the original source of energy is not also used to comply with a renewable portfolio standard.

(8) If electricity generation employs multiple energy sources, that portion of the electricity generated that is attributable to energy sources described in this section may be used to comply with a renewable portfolio standard.

(9) The State Department of Energy by rule may approve energy sources other than those described in this section that may be used to comply with a renewable portfolio standard. The department may not approve petroleum, natural gas, coal or nuclear fission as an energy source that may be used to comply with a renewable portfolio standard. [2007 c.301 §4; 2010 c.17 §3; 2010 c.71 §2]

RENEWABLE PORTFOLIO STANDARDS

469A.050 Applicable standard. (1) Electric utilities must comply with the applicable renewable portfolio standard described in ORS 469A.052 or 469A.055.

(2) Electricity service suppliers must comply with the renewable portfolio standard established under ORS 469A.065. [2007 c.301 §5]

469A.052 Large utility renewable portfolio standard. (1) The large utility renewable portfolio standard imposes the following requirements on an electric utility that makes sales of electricity to retail electricity consumers in an amount that equals three percent or more of all electricity sold to retail electricity consumers:

(a) At least five percent of the electricity sold by the utility to retail electricity consumers in each of the calendar years 2011, 2012, 2013 and 2014 must be qualifying electricity;

(b) At least 15 percent of the electricity sold by the utility to retail electricity consumers in each of the calendar years 2015, 2016, 2017, 2018 and 2019 must be qualifying electricity;

(c) At least 20 percent of the electricity sold by the utility to retail electricity consumers in each of the calendar years 2020, 2021, 2022, 2023 and 2024 must be qualifying electricity; and

(d) At least 25 percent of the electricity sold by the utility to retail electricity consumers in calendar year 2025 and subsequent calendar years must be qualifying electricity.

(2) If, on June 6, 2007, an electric utility makes sales of electricity to retail electricity consumers in an amount that equals less than three percent of all electricity sold to retail electricity consumers, but in any three consecutive calendar years thereafter makes sales of electricity to retail electricity consumers in amounts that average three percent or more of all electricity sold to retail electricity consumers, the utility is subject to the renewable portfolio standard described in subsection (3) of this section. The utility becomes subject to the standard described in subsection (3) of this section in the calendar year following the three-year period during which the utility makes sales of electricity to retail electricity consumers in amounts that average three percent or more of all electricity sold to retail electricity consumers.

(3) An electric utility described in subsection (2) of this section must comply with the following renewable portfolio standard:

(a) Beginning in the fourth calendar year after the calendar year in which the utility becomes subject to the standard described in this subsection, at least five percent of the electricity sold by the utility to retail electricity consumers in a calendar year must be qualifying electricity;

(b) Beginning in the 10th calendar year after the calendar year in which the utility becomes subject to the standard described in this subsection, at least 15 percent of the electricity sold by the utility to retail electricity consumers in a calendar year must be qualifying electricity;

(c) Beginning in the 15th calendar year after the calendar year in which the utility becomes subject to the standard described in this subsection, at least 20 percent of the electricity sold by the utility to retail electricity consumers in a calendar year must be qualifying electricity; and

(d) Beginning in the 20th calendar year after the calendar year in which the utility becomes subject to the standard described in this subsection, at least 25 percent of the electricity sold by the utility to retail electricity consumers in a calendar year must be qualifying electricity. [2007 c.301 §6]

469A.055 Small electric utilities. (1)

Except as provided in this section, an electric utility that makes sales of electricity to retail electricity consumers in an amount that equals less than three percent of all electricity sold to retail electricity consumers is not subject to ORS 469A.005 to 469A.210.

(2) Beginning in calendar year 2025, at least five percent of the electricity sold to retail electricity consumers in a calendar year by an electric utility must be qualifying electricity if the electric utility makes sales of electricity to retail electricity consumers in an amount that equals less than one and one-half percent of all electricity sold to retail electricity consumers.

(3) Beginning in calendar year 2025, at least 10 percent of the electricity sold to retail electricity consumers in a calendar year by an electric utility must be qualifying electricity if the electric utility makes sales of electricity to retail electricity consumers in an amount that equals or is more than one and one-half percent, and less than three percent, of all electricity sold to retail electricity consumers.

(4) The exemption provided by subsection (1) of this section terminates if an electric utility, or a joint operating entity that includes the utility as a member, acquires electricity from an electricity generating facility that uses coal as an energy source or makes an investment on or after June 6, 2007, in an electricity generating facility that uses coal as an energy source. This subsection does not apply to:

(a) A wholesale market purchase by an electric utility for which the energy source for the electricity is not known;

(b) BPA electricity;

(c) Acquisition of electricity under a contract entered into before June 6, 2007;

(d) A renewal or replacement contract for a contract for purchase of electricity described in paragraph (c) of this subsection;

(e) A purchase of electricity if the electricity is included in a contract for the purchase of qualifying electricity and is necessary to shape, firm or integrate the qualifying electricity;

(f) Electricity provided to an electric utility under a contract for the acquisition of an interest in an electricity generating facility that was entered into by the utility before June 6, 2007, or entered into before June 6, 2007, by an electric cooperative organized under ORS chapter 62 of which the electric utility is a member, without regard to whether the electricity is being used to serve the load of the electric utility on June 6, 2007; or

(g) Investments in an electricity generating facility that uses coal as an energy source if the investments are for the purpose of improving the facility's pollution mitigation equipment or the facility's efficiency or are necessary to comply with requirements or standards imposed by governmental entities.

(5) The exemption provided by subsection (1) of this section terminates for a consumer-owned utility if at any time after June 6, 2007, the utility acquires service territory of an electric company without the consent of the electric company.

(6) Beginning in the calendar year following the year in which an electric utility's exemption terminates under subsection (4) or (5) of this section, the utility is subject to the renewable portfolio standard described in ORS 469A.052 (3) and related provisions of ORS 469A.005 to 469A.210.

(7) The provisions of this section do not affect the requirement that electric utilities offer a green power rate under ORS 469A.205. [2007 c.301 §7]

469A.060 Exemptions from compliance with renewable portfolio standard. (1)

Electric utilities are not required to comply with the renewable portfolio standards described in ORS 469A.052 and 469A.055 to the extent that:

(a) Compliance with the standard would require the utility to acquire electricity in excess of the utility's projected load requirements in any calendar year; and

(b) Acquiring the additional electricity would require the utility to substitute qualifying electricity for electricity derived from an energy source other than coal, natural gas or petroleum.

(2)(a) Electric utilities are not required to comply with a renewable portfolio standard to the extent that compliance would require the utility to substitute qualifying electricity for electricity available to the utility under contracts for electricity from dams that are owned by Washington public utility districts and are located between the Grand Coulee Dam and the Columbia River's junction with the Snake River. The provisions of this subsection apply only to contracts entered into before June 6, 2007, and to renewal or replacement contracts for contracts entered into before June 6, 2007.

(b) If a contract described in paragraph (a) of this subsection expires and is not renewed or replaced, the utility must comply, in the calendar year following the expiration of the contract, with the renewable portfolio standard applicable to the utility.

(3) A consumer-owned utility is not required to comply with a renewable portfolio standard to the extent that compliance would require the utility to reduce the utility's purchases of the lowest priced electricity from the Bonneville Power Administration pursuant to section 5 of the Pacific Northwest Electric Power Planning and Conservation Act of 1980, P.L. 96-501, as in effect on June 6, 2007. The exemption provided by this subsection applies only to firm commitments for BPA electricity that the Bonneville Power Administration has assured will be available to a utility to meet agreed portions of the utility's load requirements for a defined period of time. [2007 c.301 §8]

469A.065 Renewable portfolio standard for electricity service suppliers. An electricity service supplier must meet the requirements of the renewable portfolio standards that are applicable to the electric utilities that serve the territories in which the electricity service supplier sells electricity to retail electricity consumers. The Public Utility Commission shall establish procedures for implementation of the renewable portfolio standards for electricity service suppliers that sell electricity in the service territory of an electric company. If an electricity service supplier sells electricity in territories served by more than one electric company, the commission may provide for an aggregate standard based on the amount of electricity sold by the electricity service supplier in each territory. Pursuant to ORS 757.676, a consumer-owned utility may establish procedures for the implementation of the renewable portfolio standards for electricity service suppliers that sell electricity in the territory served by the consumer-owned utility. [2007 c.301 §9]

469A.070 Manner of complying with renewable portfolio standards. (1) Except as provided in subsection (2) of this section, an electric utility or electricity service supplier must comply with the renewable portfolio standard applicable to the utility or supplier in each calendar year by:

(a) Using bundled renewable energy certificates issued or acquired during the compliance year;

(b) Subject to the limitations described in ORS 469A.140 and 469A.145, using unbundled or banked renewable energy certificates; or

(c) Making alternative compliance payments as described in ORS 469A.180.

(2) Bundled or unbundled renewable energy certificates that are issued or acquired by an electric utility or electricity service supplier on or before March 31 in a calendar year may be used by the utility or supplier to comply with the renewable portfolio standard applicable to the utility or supplier for the preceding calendar year. [2007 c.301 §10]

469A.075 Implementation plan for electric companies; annual reports; rules.

(1) An electric company that is subject to a renewable portfolio standard shall develop an implementation plan for meeting the requirements of the standard and file the plan with the Public Utility Commission. Implementation plans must be revised and updated at least once every two years.

(2) An implementation plan must at a minimum contain:

(a) Annual targets for acquisition and use of qualifying electricity; and

(b) The estimated cost of meeting the annual targets, including the cost of transmission, the cost of firming, shaping and integrating qualifying electricity, the cost of alternative compliance payments and the cost of acquiring renewable energy certificates.

(3) The commission shall acknowledge the implementation plan no later than six months after the plan is filed with the commission. The commission may acknowledge the plan subject to conditions specified by the commission.

(4) The commission shall adopt rules:

(a) Establishing requirements for the content of implementation plans;

(b) Establishing the procedure for acknowledgment of implementation plans under this section, including provisions for public comment; and

(c) Providing for the integration of the implementation plan with the integrated resource planning guidelines established by the commission and in effect on June 6, 2007.

(5) The implementation plan filed under this section may include procedures that will be used by the electric company to determine whether the costs of constructing a facility that generates electricity from a renewable energy source, or the costs of acquiring bundled or unbundled renewable energy certificates, are consistent with the standards of the commission relating to least-cost, least-risk planning for acquisition of resources. [2007 c.301 §11]

COST LIMITATION

469A.100 Limits on cost of compliance with renewable portfolio standard. (1) Electric utilities are not required to comply with a renewable portfolio standard during a compliance year to the extent that the incremental cost of compliance, the cost of unbundled renewable energy certificates and the cost of alternative compliance payments under ORS 469A.180 exceeds four percent of the utility's annual revenue requirement for the compliance year.

(2) For each electric company, the Public Utility Commission shall establish the annual revenue requirement for a compliance year no later than January 1 of the compliance year. The governing body of a consumer-owned utility shall establish the annual revenue requirement for the consumer-owned utility.

(3) The annual revenue requirement for an electric utility shall be calculated based only on the operations of the utility relating to electricity. The annual revenue requirement does not include any amount expended by the utility for energy efficiency programs for customers of the utility or for low income energy assistance, the incremental cost of compliance with a renewable portfolio standard, the cost of unbundled renewable energy certificates or the cost of alternative compliance payments under ORS 469A.180. The annual revenue requirement does include:

(a) All operating expenses of the utility during the compliance year, including depreciation and taxes; and

(b) For electric companies, an amount equal to the total rate base of the company for the compliance year multiplied by the rate of return established by the commission for debt and equity of the company.

(4) For the purposes of this section, the incremental cost of compliance with a renewable portfolio standard is the difference between the levelized annual delivered cost of the qualifying electricity and the levelized annual delivered cost of an equivalent amount of reasonably available electricity that is not qualifying electricity. For the purpose of this subsection, the commission

or governing body of a consumer-owned utility shall use the net present value of delivered cost, including:

(a) Capital, operating and maintenance costs of generating facilities;

(b) Financing costs attributable to capital, operating and maintenance expenditures for generating facilities;

(c) Transmission and substation costs;

(d) Load following and ancillary services costs; and

(e) Costs associated with using other assets, physical or financial, to integrate, firm or shape renewable energy sources on a firm annual basis to meet retail electricity needs.

(5) For the purposes of this section, the governing body of a consumer-owned utility may include in the incremental cost of compliance with a renewable portfolio standard all expenses associated with research, development and demonstration projects related to the generation of qualifying electricity by the consumer-owned utility.

(6) The commission shall establish limits on the incremental cost of compliance with the renewable portfolio standard for electricity service suppliers under ORS 469A.065 that are the equivalent of the cost limits applicable to the electric companies that serve the territories in which the electricity service supplier sells electricity to retail electricity consumers. If an electricity service supplier sells electricity in territories served by more than one electric company, the commission may provide for an aggregate cost limit based on the amount of electricity sold by the electricity service supplier in each territory. Pursuant to ORS 757.676, a consumer-owned utility may establish limits on the cost of compliance with the renewable portfolio standard for electricity service suppliers that sell electricity in the territory served by the consumer-owned utility. [2007 c.301 §12]

COST RECOVERY

469A.120 Cost recovery by electric companies. (1) Except as provided in ORS 469A.180 (5), all prudently incurred costs associated with compliance with a renewable portfolio standard are recoverable in the rates of an electric company, including interconnection costs, costs associated with using physical or financial assets to integrate, firm or shape renewable energy sources on a firm annual basis to meet retail electricity needs, above-market costs and other costs associated with transmission and delivery of qualifying electricity to retail electricity consumers.

(2) The Public Utility Commission shall establish an automatic adjustment clause as

defined in ORS 757.210 or another method that allows timely recovery of costs prudently incurred by an electric company to construct or otherwise acquire facilities that generate electricity from renewable energy sources and for associated electricity transmission. Notwithstanding any other provision of law, upon the request of any interested person the commission shall conduct a proceeding to establish the terms of the automatic adjustment clause or other method for timely recovery of costs. The commission shall provide parties to the proceeding with the procedural rights described in ORS 756.500 to 756.610, including but not limited to the opportunity to develop an evidentiary record, conduct discovery, introduce evidence, conduct cross-examination and submit written briefs and oral argument. The commission shall issue a written order with findings on the evidentiary record developed in the proceeding.

(3) An electric company must file with the commission for approval of a proposed rate change to recover costs under the terms of an automatic adjustment clause or other method for timely recovery of costs established under subsection (2) of this section. Notwithstanding any other provision of law, upon the request of any interested person the commission shall conduct a proceeding to determine whether to approve a proposed change in rates under the automatic adjustment clause or other method for timely recovery of costs. The commission shall provide parties to the proceeding with the procedural rights described in ORS 756.500 to 756.610, including but not limited to the opportunity to develop an evidentiary record, conduct discovery, introduce evidence, conduct cross-examination and submit written briefs and oral argument. The commission shall issue a written order with findings on the evidentiary record developed in the proceeding. A filing made under this subsection is subject to the commission's authority under ORS 757.215 to suspend a rate, or schedule of rates, for investigation. [2007 c.301 §13; 2010 c.79 §1]

RENEWABLE ENERGY CERTIFICATES

469A.130 Renewable energy certificates system. (1) The State Department of Energy shall establish a system of renewable energy certificates that can be used by an electric utility or electricity service supplier to establish compliance with the applicable renewable portfolio standard. The department shall consult with the Public Utility Commission before establishing a system of renewable energy certificates under this section. The department may allow use of renewable energy certificates that are issued,

monitored, accounted for or transferred by or through a regional system or trading program, including but not limited to the Western Renewable Energy Generation Information System. The system established by the department shall allow issuance, transfer and use of renewable energy certificates in electronic form.

(2) The validity of a bundled renewable energy certificate for purposes of compliance with the applicable renewable portfolio standard is not affected by the substitution of any other electricity for the qualifying electricity at any point after the time of generation. [2007 c.301 §14]

469A.135 Renewable energy certificates that may be used to comply with standards. (1) A bundled renewable energy certificate may be used to comply with a renewable portfolio standard if:

(a) The facility that generates the qualifying electricity for which the certificate is issued is located in the United States and within the geographic boundary of the Western Electricity Coordinating Council; and

(b) The qualifying electricity for which the certificate is issued is delivered to the Bonneville Power Administration, to the transmission system of an electric utility or to another delivery point designated by an electric utility for the purpose of subsequent delivery to the electric utility.

(2) An unbundled renewable energy certificate may be used to comply with a renewable portfolio standard if the facility that generates the qualifying electricity for which the certificate is issued is located within the geographic boundary of the Western Electricity Coordinating Council.

(3) Renewable energy certificates issued for any electricity that the Bonneville Power Administration has designated as environmentally preferred power, or has given a similar designation for electricity generated from a renewable resource, may be used to comply with a renewable portfolio standard without regard to the location of the generating facility. [2007 c.301 §15]

469A.140 Use, transfer and banking of certificates. (1) Renewable energy certificates may be traded, sold or otherwise transferred.

(2) Renewable energy certificates that are not used by an electric utility or electricity service supplier to comply with a renewable portfolio standard in a calendar year may be banked and carried forward indefinitely for the purpose of complying with a renewable portfolio standard in a subsequent year. For the purpose of complying with a renewable portfolio standard in any calendar year:

(a) Banked renewable energy certificates must be used, up to the limit imposed by ORS 469A.145, before other certificates are used; and

(b) Banked renewable energy certificates with the oldest issuance date must be used to comply with the standard before banked renewable energy certificates with more recent issuance dates are used.

(3) An electric utility or electricity service supplier is responsible for demonstrating that a renewable energy certificate used to comply with a renewable portfolio standard is derived from a renewable energy source and that the utility or supplier has not used, traded, sold or otherwise transferred the certificate.

(4) The same renewable energy certificate may be used by an electric utility or electricity service supplier to comply with a federal renewable portfolio standard and a renewable portfolio standard established under ORS 469A.005 to 469A.210. An electric utility or electricity service supplier that uses a renewable energy certificate to comply with a renewable portfolio standard imposed by any other state may not use the same certificate to comply with a renewable portfolio standard established under ORS 469A.005 to 469A.210. [2007 c.301 §16]

469A.145 Limitations on use of unbundled certificates to meet renewable portfolio standard. (1) Except as otherwise provided in this section, unbundled renewable energy certificates, including banked unbundled renewable energy certificates, may not be used to meet more than 20 percent of the requirements of the large utility renewable portfolio standard described in ORS 469A.052 for any compliance year.

(2) The limitation imposed by subsection (1) of this section does not apply to renewable energy certificates issued for electricity generated in Oregon from a renewable energy source by a net metering facility as defined in ORS 757.300, or another generating facility that is not directly connected to a distribution or transmission system.

(3) The limitation imposed by subsection (1) of this section does not apply to renewable energy certificates issued for electricity generated in Oregon by a qualifying facility under ORS 758.505 to 758.555.

(4) The limitation imposed by subsection (1) of this section does not apply to an electricity service supplier. [2007 c.301 §17]

Note: Section 17a, chapter 301, Oregon Laws 2007, provides:

Sec. 17a. Notwithstanding section 17 (1) of this 2007 Act [469A.145 (1)], for compliance years before 2020, a consumer-owned utility subject to the large utility renewable portfolio standard described in section 6 of this 2007 Act [469A.052] may use unbundled renewable

energy certificates, including banked unbundled renewable energy certificates, to meet up to 50 percent of the requirements of the standard. [2007 c.301 §17a]

469A.150 Multistate electric companies; rules. The Public Utility Commission by rule shall establish a process for allocating the use of renewable energy certificates by an electric company that makes sales of electricity to retail customers in more than one state. [2007 c.301 §18]

COMPLIANCE REPORTS

469A.170 Compliance reports. (1) Each electric utility and electricity service supplier that is subject to a renewable portfolio standard shall make an annual compliance report for the purpose of detailing compliance, or failure to comply, with the renewable portfolio standard applicable in the compliance year. An electric company or electricity service supplier shall make the report to the Public Utility Commission. A consumer-owned utility shall make the report to the members or customers of the utility.

(2) The commission shall review each compliance report filed under this section by an electric company or electricity service supplier for the purposes of determining whether the company or supplier has complied with the renewable portfolio standard applicable to the company or supplier and the manner in which the company or supplier has complied. In reviewing the reports, the commission shall consider:

(a) The relative amounts of renewable energy certificates and other payments used by the company or supplier to meet the applicable renewable portfolio standard, including:

(A) Bundled renewable energy certificates;

(B) Unbundled renewable energy certificates;

(C) Banked renewable energy certificates; and

(D) Alternative compliance payments under ORS 469A.180.

(b) The timing of electricity purchases.

(c) The market prices for electricity purchases and unbundled renewable energy certificates.

(d) Whether the actions taken by the company or supplier are contributing to long term development of generating capacity using renewable energy sources.

(e) The effect of the actions taken by the company or supplier on the rates payable by retail electricity consumers.

(f) Good faith forecasting differences associated with the projected number of retail electricity consumers served and the avail-

ability of electricity from renewable energy sources.

(g) For electric companies, consistency with the implementation plan filed under ORS 469A.075, as acknowledged by the commission.

(h) Any other factors deemed reasonable by the commission.

(3) The commission by rule may establish requirements for compliance reports submitted by an electric company or electricity service supplier. [2007 c.301 §19]

ALTERNATIVE COMPLIANCE PAYMENTS

469A.180 Electric companies; electricity service suppliers. (1) The Public Utility Commission shall establish an alternative compliance rate for each compliance year for each electric company or electricity service supplier that is subject to a renewable portfolio standard. The rate shall be expressed in dollars per megawatt-hour.

(2) The commission shall establish an alternative compliance rate based on the cost of qualifying electricity, contracts that the electric company or electricity service supplier has acquired for future delivery of qualifying electricity and the number of unbundled renewable energy certificates that the company or supplier anticipates using in the compliance year to meet the renewable portfolio standard applicable to the company or supplier. The commission shall also consider any determinations made under ORS 469A.170 in reviewing the compliance report made by the electric company or electricity service supplier for the previous compliance year. In establishing an alternative compliance rate, the commission shall set the rate to provide adequate incentive for the electric company or electricity service supplier to purchase or generate qualifying electricity in lieu of using alternative compliance payments to meet the renewable portfolio standard applicable to the company or supplier.

(3) An electric company or electricity service supplier may elect to use, or may be required by the commission to use, alternative compliance payments to comply with the renewable portfolio standard applicable to the company or supplier. Any election by an electric company or electricity service supplier to use alternative compliance payments is subject to review by the commission under ORS 469A.170. An electric company or electricity service supplier may not be required to make alternative compliance payments

that would result in the company or supplier exceeding the cost limitation established under ORS 469A.100.

(4) The commission shall determine for each electric company the extent to which alternative compliance payments may be recovered in the rates of the company. Each electric company shall deposit any amounts recovered in the rates of the company for alternative compliance payments in a holding account established by the company. Amounts in the holding account shall accrue interest at the rate of return authorized by the commission for the electric company.

(5) Amounts in holding accounts established under subsection (4) of this section may be expended by an electric company only for costs of acquiring new generating capacity from renewable energy sources, investments in efficiency upgrades to electricity generating facilities owned by the company and energy conservation programs within the company's service area. The commission must approve expenditures by an electric company from a holding account established under subsection (4) of this section. Amounts that are collected from customers and spent by an electric company under this subsection may not be included in the company's rate base.

(6) The commission shall require electricity service suppliers to establish holding accounts and make payments to those accounts on a substantially similar basis as provided for electric companies. The commission must approve expenditures by an electricity service supplier from a holding account established under this subsection. The commission may approve expenditures only for energy conservation programs for customers of the electricity service supplier. [2007 c.301 §20]

469A.185 Consumer-owned utilities. The governing body of a consumer-owned utility shall establish an alternative compliance rate for the utility. To the extent possible, the alternative compliance rate shall be determined by the governing body of the consumer-owned utility in a manner similar to that used by the Public Utility Commission in establishing alternative compliance rates under ORS 469A.180. Amounts collected as alternative compliance payments by a consumer-owned utility may be used for the purposes specified in ORS 469A.180 (5) and for the purpose of paying expenses associated with research, development and demonstration projects related to the generation of qualifying electricity by the utility. [2007 c.301 §21]

PENALTY

469A.200 Penalty. If an electric company or electricity service supplier that is subject to a renewable portfolio standard under ORS 469A.005 to 469A.210 fails to comply with the standard in the manner provided by ORS 469A.005 to 469A.210, the Public Utility Commission may impose a penalty against the company or supplier in an amount determined by the commission. A penalty under this section is in addition to any alternative compliance payment required or elected under ORS 469A.180. Moneys paid for penalties under this section shall be transmitted by the commission to the nongovernmental entity receiving moneys under ORS 757.612 (3)(d) and may be used only for the purposes specified in ORS 757.612 (1). [2007 c.301 §22]

GREEN POWER RATE

469A.205 Green power rate. (1) Electric utilities shall allow retail electricity consumers to elect a green power rate. A significant portion of the electricity purchased or generated by a utility that is attributable to moneys paid by retail electricity consumers who elect the green power rate must be qualifying electricity, and the utility must inform consumers of the sources of the electricity purchased or generated by the utility that is attributable to moneys paid by consumers who elect the green power rate. The green power rate shall reasonably reflect the costs of the electricity purchased or generated by the utility that is attributable to moneys paid by retail electricity consumers who elect the green power rate. All prudently incurred costs associated with the green power rate are recoverable in a green power rate offered by an electric company.

(2) Any qualifying electricity procured by an electric utility to provide electricity under a green power rate under subsection (1) of this section or ORS 757.603 (2)(a) may not be used by the utility to comply with the requirements of a renewable portfolio standard.

(3) The provisions of subsection (1) of this section do not apply to electric companies that are subject to ORS 757.603 (2)(a).

(4) An electric utility may comply with the requirements of subsection (1) of this section by contracting with a third-party provider. [2007 c.301 §23]

COMMUNITY-BASED RENEWABLE ENERGY PROJECTS

469A.210 Goal for community-based renewable energy projects. The Legislative Assembly finds that community-based renewable energy projects, including but not limited to marine renewable energy re-

sources that are either developed in accordance with the Territorial Sea Plan adopted pursuant to ORS 196.471 or located on structures adjacent to the coastal shorelands, are an essential element of Oregon's energy future, and declares that it is the goal of the State of Oregon that by 2025 at least eight percent of Oregon's retail electrical load comes from small-scale renewable energy projects with a generating capacity of 20 megawatts or less. All agencies of the executive department as defined in ORS 174.112 shall establish policies and procedures promoting the goal declared in this section. [2007 c.301 §24; 2010 c.68 §1]

JOB IMPACT STUDY

Note: Sections 25 and 26, chapter 301, Oregon Laws 2007, provide:

Sec. 25. (1) The State Department of Energy shall periodically conduct a study to evaluate the impact of sections 1 to 24 of this 2007 Act [469A.005 to 469A.210] on jobs in this state. The study shall assess the number of new jobs created in the renewable energy sector in this state and the average wage rates and the provision of health care and other benefits for those jobs. In addition, the study shall investigate the extent to which workforce training opportunities are being provided to employees to prepare the employees for jobs in the renewable energy sector.

(2) The department shall conduct the first study under this section not later than two years after the effective date of this 2007 Act [June 6, 2007]. [2007 c.301 §25]

Sec. 26. Section 25 of this 2007 Act is repealed January 2, 2026. [2007 c.301 §26]

HYDROGEN POWER STATIONS

469A.300 Hydrogen power stations; compliance with renewable portfolio standard; cost recovery for prudent energy investments. To facilitate the creation of hydrogen power stations using anhydrous ammonia as a fuel source to comply with a renewable portfolio standard under ORS 469A.005 to 469A.210, the Public Utility Commission may allow full recovery of costs by public utilities in prudent energy investments related to the planning, financing, construction and operation of hydrogen power stations. These investments may include, but need not be limited to:

(1) Systems designed to synthesize anhydrous ammonia fuel using electricity generated from renewable energy sources listed in ORS 469A.025;

(2) Infrastructure designed to store anhydrous ammonia generated from renewable energy sources as a nonpolluting fuel for electricity generation and any other purpose;

(3) Energy systems designed to use anhydrous ammonia generated from renewable energy sources as a fuel to generate electricity; and

(4) Electronic control and management systems designed to effectively integrate hydrogen power station processes into the electricity transmission grid. [2010 c.17 §2]
