

## CHAPTER 51

AN ACT

SB 1525

Relating to the State Department of Energy; creating new provisions; amending ORS 468A.193, 468A.195 and 469.320 and sections 29 and 31, chapter 508, Oregon Laws 2021, section 16, chapter 99, Oregon Laws 2022, and sections 60 and 61, chapter 442, Oregon Laws 2023; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

## NATURAL AND WORKING LANDS

**SECTION 1.** ORS 468A.195 is amended to read:

468A.195. (1) The State Department of Energy and the Oregon Climate Action Commission, in coordination with the State Forestry Department, the State Department of Agriculture, the Oregon Watershed Enhancement Board, the Department of State Lands, the Department of Land Conservation and Development and federal land management partners, shall develop a natural and working lands net biological carbon sequestration and storage inventory. The inventory must:

(a) Be based on the best available field-based and remote sensing data on biological carbon sequestration;

(b) To the greatest extent possible, be developed using methods consistent with methods used to assess greenhouse gas fluxes related to land use, land change and forestry for the United States Environmental Protection Agency's Inventory of U.S. Greenhouse Gas Emissions and Sinks; and

(c) Where feasible, utilize information from the environmental justice mapping tool developed under ORS 182.555.

(2) Before finalizing the inventory, the State Department of Energy and the commission shall make a draft version publicly available and receive comments from the public, state agencies and the advisory committee established under ORS 468A.197.

(3) The State Department of Energy shall update the inventory and submit a report describing the inventory to the Oregon Climate Action Commission no later than December 1 of each *[even-numbered]* **odd-numbered** year.

(4) The State Department of Energy may contract with a third party to assist the department in performing its duties under this section.

**SECTION 2.** Section 60, chapter 442, Oregon Laws 2023, is amended to read:

**Sec. 60.** (1) The State Department of Energy, in coordination with the Oregon Climate Action Commission, shall study the workforce and training programs needed to support adoption of natural climate solutions on natural and working lands.

(2) The department shall provide the results of the study, and may include recommendations for

legislation, in a report to the committees of the Legislative Assembly related to the environment, in the manner provided under ORS 192.245, no later than September 15, *[2024]* **2025**.

(3) The department may contract with a third party to assist the department in performing its duties under this section.

**SECTION 3.** Section 61, chapter 442, Oregon Laws 2023, is amended to read:

**Sec. 61.** Section 60, **chapter 442, Oregon Laws 2023**, *[of this 2023 Act]* is repealed on January 2, *[2025]* **2026**.

**SECTION 4.** ORS 468A.193 is amended to read:

468A.193. (1) The State Department of Energy and the Oregon Climate Action Commission shall, in coordination with the State Forestry Department, the State Department of Agriculture, the State Department of Fish and Wildlife, the Oregon Watershed Enhancement Board the Department of State Lands, the State Parks and Recreation Department and the Department of Land Conservation and Development, and in consultation with relevant federal agencies, establish and maintain:

(a) A net biological carbon sequestration and storage baseline for natural and working lands;

(b) Activity-based metrics in accordance with subsection (3) of this section; and

(c) Community impact metrics in accordance with subsection (4) of this section.

(2) The net biological carbon sequestration and storage baseline may use 1990 as a baseline year if the department determines that there is adequate information to support setting the baseline at that year.

(3) Activity-based metrics shall be used to evaluate progress toward increasing net biological carbon sequestration and storage in natural and working lands, as measured against the net carbon sequestration and storage baseline. Activity-based metrics may include, but need not be limited to, acres of lands for which certain management practices have been adopted.

(4) Community impact metrics shall be used to evaluate the positive and negative effects, over time, of strategies for net biological carbon sequestration and storage in natural and working lands on landowners, land managers and communities. Community impact metrics may include, but need not be limited to:

(a) Metrics to measure the effects of net biological carbon sequestration and storage strategies on jobs, local economies, environmental integrity and public health; and

(b) Metrics to evaluate the accessibility of a diverse range of landowners to net biological carbon sequestration and storage programs.

(5) Before finalizing the net biological carbon sequestration and storage baseline, activity-based metrics and community impact metrics, the State Department of Energy and the commission shall make draft versions publicly available and receive

comments from the public, state agencies and the advisory committee established under ORS 468A.197.

(6) The State Department of Energy and the Oregon Climate Action Commission, in consultation with the State Forestry Department, the State Department of Agriculture, the Oregon Watershed Enhancement Board, the State Department of Fish and Wildlife, shall, *no later than January 1, 2025,* establish nonbinding biological carbon sequestration and storage goals for Oregon's natural and working lands and update those goals as new information becomes available.

(7) The State Department of Energy may contract with a third party to assist the department in performing its duties under this section.

**SECTION 5.** The State Department of Energy shall ensure that the nonbinding biological carbon sequestration and storage goals for Oregon's natural and working lands described in ORS 468A.193 (6) are first established no later than January 1, 2026.

#### ENERGY SECURITY PLAN

**SECTION 6.** Section 16, chapter 99, Oregon Laws 2022, is amended to read:

**Sec. 16. Notwithstanding ORS 469.064 (4),** the State Department of Energy shall submit the **first** energy security plan developed under *[section 12 of this 2022 Act]* **ORS 469.064** in a report to the interim committees of the Legislative Assembly related to energy, in the manner provided under ORS 192.245, no later than *[June 1,]* **September 30, 2024.**

#### COMMUNITY RENEWABLE INVESTMENT PROGRAM

**SECTION 7.** Section 29, chapter 508, Oregon Laws 2021, is amended to read:

**Sec. 29.** As used in sections 29 to 32, **chapter 508, Oregon Laws 2021** *[of this 2021 Act]:*

(1) "Community renewable energy project" means one or more renewable energy systems, storage systems, microgrids or energy-related infrastructures that promote energy resilience, increase renewable energy generation or renewable energy storage capacity and provide a direct benefit to a particular community in the form of increased community energy resilience, local jobs, economic development or direct energy costs savings to families and small businesses.

(2) "Community energy resilience" means the ability of a specific community to maintain the availability of energy needed to support the provision of energy-dependent critical public services to the community following nonroutine disruptions of severe impact or duration to the state's broader energy systems.

(3) "Community energy resilience project" means a community renewable energy project that includes

utilizing one or more renewable energy systems to support the energy resilience of structures or facilities that are essential to the public welfare.

(4) "Consumer-owned utility" means a municipal electricity utility, a people's utility district organized under ORS chapter 261 that sells electricity or an electric cooperative organized under ORS chapter 62.

(5) "**Electric cooperative organized under ORS chapter 62**" includes an electric cooperative organized under ORS chapter 62 that is operating in this state and formed for one or both of the following purposes:

(a) To generate, purchase or obtain electric power, energy, transmission services or ancillary services; or

(b) To represent one or more consumer-owned utilities in meeting rural, environmental or renewable energy requirements and mandates.

*[(5)]* (6) "Energy resilience" means the ability of energy systems, from production through delivery to end-users, to withstand and restore energy delivery rapidly following nonroutine disruptions of severe impact or duration.

*[(6)]* (7) "Planning costs" means the costs related to planning paid by an applicant, or an applicant's partner, described under section 30, **chapter 508, Oregon Laws 2021** *[of this 2021 Act]*.

*[(7)]* (8) "Project cost" means the actual cost of the acquisition, construction and installation of a renewable energy system incurred by an applicant, or an applicant's partner, described under section 30, **chapter 508, Oregon Laws 2021,** *[of this 2021 Act]* for the system, before considering utility incentives.

*[(8)]* (9) "Public body" means a public body as defined in ORS 174.109.

*[(9)]* (10) "Qualifying community" means a community that qualifies as an environmental justice community as defined in **ORS 469A.400** *[section 1 of this 2021 Act]*.

*[(10)]* (11) "Renewable energy system" includes:

(a) A system that uses biomass, solar, geothermal, hydroelectric, wind, landfill gas, biogas or wave, tidal or ocean thermal energy technology to produce energy.

(b) One or more energy storage systems paired with an existing or newly constructed system described in paragraph (a) of this subsection.

(c) One or more vehicle charging stations paired with an existing or newly constructed system described in paragraph (a) of this subsection.

(d) Microgrid enabling technologies, including microgrid controllers and any other related technologies needed to electrically isolate a community energy resilience project from the electric grid so that the project is capable of operating independently from the electric grid.

**SECTION 8.** Section 31, chapter 508, Oregon Laws 2021, is amended to read:

**Sec. 31.** (1)(a) A performance agreement for planning a community renewable energy project entered into between the State Department of Energy and an applicant under section 30 (9), **chapter 508, Oregon Laws 2021**, [of this 2021 Act] must provide, at a minimum:

(A) A grant in an amount described in paragraph (b) of this subsection that covers up to 100 percent of the reasonable planning costs including, but not limited to, costs associated with:

- (i) Consulting fees.
- (ii) Load analysis.
- (iii) Siting, excluding property acquisition.
- (iv) Ensuring code compliance.
- (v) Interconnection studies.
- (vi) Transmission studies.

(vii) Other reasonable expenditures made in the community renewable energy project planning process as determined by the department by rule.

(B) A grant may not be used to cover any fixed costs the applicant would incur in the applicant's normal course of business such as existing staff salaries or overhead costs.

(C) The department may recover grant moneys if a project fails to abide by the performance agreement or if planning is not completed within six months of execution of the performance agreement or a reasonable time frame if good cause to extend the deadline is demonstrated as determined by rule.

(b) The department may establish differing limits on the maximum amount of grants for planning community renewable energy projects based on the scope and attributes of the planning applications not to exceed an amount of \$100,000 per grant.

(c) Notwithstanding paragraph (a) of this subsection, the department may provide a grant that covers up to 100 percent of the reasonable planning costs only if the application demonstrates the planning proposal is for a community renewable energy project that:

(A) If for producing energy:

- (i) Will make use of an adequately available renewable energy resource to produce the energy;
- (ii) Has a specific market for the energy; and
- (iii) Will reasonably and efficiently connect or transmit the energy to the specific community identified in the application under section 30 (3), **chapter 508, Oregon Laws 2021** [of this 2021 Act]; or

(B) If for increasing energy resilience:

- (i) Will increase the energy resilience of a specific structure or facility or collection of structures or facilities essential to the public welfare; and
- (ii) Will provide energy resilience benefits to the specific structure or facility or to the collection of structures or facilities.

(2) A performance agreement for developing a community renewable energy project entered into between the State Department of Energy and an applicant under section 30 (9), **chapter 508, Oregon Laws 2021**, [of this 2021 Act] must provide, at a minimum:

(a) For a community renewable energy project that qualifies as a community energy resilience

project, a grant that covers up to 100 percent of the project cost not to exceed \$1 million. The department shall reduce the grant amount, if the grant combined with other incentives and grants received by the applicant **or a partner of the applicant** exceeds 100 percent of the total costs associated with the project.

(b) For a community renewable energy project that does not qualify as a community energy resilience project, a grant that covers up to 50 percent of the project cost not to exceed \$1 million. The department shall reduce the grant amount, if the grant combined with other incentives and grants received by the applicant **or a partner of the applicant** exceeds 100 percent of the total costs associated with the project.

(c) **Subject to paragraph (e) of this subsection**, the department may release up to 30 percent of the grant moneys provided for in a performance agreement[, *not to exceed 30 percent of project cost,*] upon entering into a performance agreement with an applicant for developing a community renewable energy project, [*with the remaining grant moneys to be released upon project completion under the terms of the performance agreement,*] if upon entering the performance agreement the applicant demonstrates **that the applicant or a partner of the applicant has** [*having*]:

(A) Taken meaningful steps to seek site control, including but not limited to an option to lease or purchase the site or an executed letter of intent or exclusivity agreement to negotiate an option to lease or purchase the site;

(B) Filed a request for interconnection with a host utility or appropriate transmission provider; and

(C) Met any other requirements provided by the department by rule, such as filing a request for a power purchase or net metering agreement.

**(d) Subject to paragraph (e) of this subsection, in addition to grant moneys released under paragraph (c) of this subsection, the department may release up to 30 percent of the grant moneys provided for in a performance agreement if the applicant demonstrates that the applicant or a partner of the applicant has met the requirements of paragraph (c) of this subsection and any additional requirements for the release of grant funds under this paragraph provided by the department by rule, such as demonstrating eligible costs incurred for the acquisition or construction of a community renewable energy project.**

**(e) The amount of grant moneys released pursuant to paragraph (c) or (d) of this subsection may not exceed, for each release of grant moneys:**

**(A) Thirty percent of project cost for community renewable energy projects that qualify as community energy resilience projects; and**

**(B) Fifteen percent of project cost for community renewable energy projects that do not qualify as community energy resilience projects.**

**(f) Grant moneys not released under paragraph (c) or (d) of this subsection shall be released upon project completion under the terms of the performance agreement.**

~~[(d)]~~ **(g)** The department may recover grant moneys if:

(A) The project fails to abide by the performance agreement;

(B) The project fails to begin construction within 12 months of execution of the performance agreement or a reasonable time frame if good cause to extend the deadline is demonstrated as determined by rule; or

(C) The project is not completed within 36 months of execution of the performance agreement or a reasonable time frame if good cause to extend the deadline is demonstrated as determined by rule.

(3) The department shall gather information from grantees necessary to evaluate indicators of success as determined by rule.

## STANDBY GENERATION FACILITIES

**SECTION 9.** ORS 469.320 is amended to read:

469.320. (1) Except as provided in subsections (2) and (5) of this section, no facility shall be constructed or expanded unless a site certificate has been issued for the site thereof in the manner provided in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992. No facility shall be constructed or operated except in conformity with the requirements of ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

(2) A site certificate is not required for:

(a) An energy facility for which no site certificate has been issued that, on August 2, 1993, had operable electric generating equipment for a modification that uses the same fuel type and increases electric generating capacity, if:

(A) The site is not enlarged; and

(B) The ability of the energy facility to use fuel for electricity production under peak steady state operating conditions is not more than 200 million Btu per hour greater than it was on August 2, 1993, or the energy facility expansion is called for in the short-term plan of action of an energy resource plan that has been acknowledged by the Public Utility Commission of Oregon.

(b) Construction or expansion of any interstate natural gas pipeline or associated underground natural gas storage facility authorized by and subject to the continuing regulation of the Federal Energy Regulatory Commission or successor agency.

(c) An energy facility, except coal and nuclear power plants, if the energy facility:

(A) Sequentially produces electrical energy and useful thermal energy from the same fuel source; and

(B) Under average annual operating conditions, has a nominal electric generating capacity:

(i) Of less than 50 megawatts and the fuel chargeable to power heat rate value is not greater than 6,000 Btu per kilowatt hour;

(ii) Of 50 megawatts or more and the fuel chargeable to power heat rate value is not greater than 5,500 Btu per kilowatt hour; or

(iii) Specified by the Energy Facility Siting Council by rule based on the council's determination relating to emissions of the energy facility.

(d) Temporary storage, at the site of a nuclear-fueled thermal power plant for which a site certificate has been issued by the State of Oregon, of radioactive waste from the plant.

(e) An energy facility as defined in ORS 469.300 (11)(a)(G), if the plant also produces a secondary fuel used on site for the production of heat or electricity, if the output of the primary fuel is less than six billion Btu of heat a day.

(f) An energy facility as defined in ORS 469.300 (11)(a)(G), if the facility:

(A) Exclusively uses biomass, including but not limited to grain, whey, potatoes, oilseeds, waste vegetable oil or cellulosic biomass, as the source of material for conversion to a liquid fuel;

(B) Has received local land use approval under the applicable acknowledged comprehensive plan and land use regulations of the affected local government and the facility complies with any statewide planning goals or rules of the Land Conservation and Development Commission that are directly applicable to the facility;

(C) Requires no new electric transmission lines or gas or petroleum product pipelines that would require a site certificate under subsection (1) of this section;

(D) Produces synthetic fuel, at least 90 percent of which is used in an industrial or refueling facility located within one mile of the facility or is transported from the facility by rail or barge; and

(E) Emits less than 118 pounds of carbon dioxide per million Btu from fossil fuel used for conversion energy.

(g) A standby generation facility, if the facility complies with all of the following:

(A) The facility has received local land use approval under the applicable acknowledged comprehensive plan and land use regulations of the affected local government and the facility complies with all statewide planning goals and applicable rules of the Land Conservation and Development Commission;

(B) The standby generators have been approved by the Department of Environmental Quality as having complied with all applicable air and water quality requirements. For an applicant that proposes to provide the physical facilities for the installation of standby generators, the requirement of this subparagraph may be met by agreeing to require such a term in the lease contract for the facility; and

(C) The standby generators are:

(i) Electrically incapable of being interconnected to the transmission grid. For an applicant that proposes to provide the physical facilities for the installation of standby generators **under this**

**sub-subparagraph**, the requirement of this [*subparagraph*] **sub-subparagraph** may be met by agreeing to require such a term in the lease contract for the facility; or

**(ii) Electrically capable of being interconnected to the grid but are dispatched to the grid by a local transmission and distribution grid operator or balancing authority to support grid reliability, are operated consistent with 40 C.F.R. 63.6640(f), as in effect on the effective date of this 2024 Act, and are exclusively using renewable fuels, including renewable diesel, renewable natural gas or renewable hydrogen, if such fuels are available and if their use does not violate the warranty or certification of the generator.**

(3) The Energy Facility Siting Council may review and, if necessary, revise the fuel chargeable to power heat rate value set forth in subsection (2)(c)(B) of this section. In making its determination, the council shall ensure that the fuel chargeable to power heat rate value for facilities set forth in subsection (2)(c)(B) of this section remains significantly lower than the fuel chargeable to power heat rate value for the best available, commercially viable thermal power plant technology at the time of the revision.

(4)(a)(A) Any person who proposes to construct or enlarge an energy facility and who claims an exemption under subsection (2)(a), (c) or (f) of this section from the requirement to obtain a site certificate shall request the Energy Facility Siting Council to determine whether the proposed facility qualifies for the claimed exemption.

(B) The council may not require a person who operates or proposes to construct or enlarge an energy facility to request that the council determine whether the proposed facility qualifies for exemption under subsection (2)(g) of this section.

(b) The council shall make its determination within 60 days after the request for exemption is filed. An appeal from the council's determination on a request for exemption shall be made under ORS 469.403, except that the scope of review by the Supreme Court shall be the same as a review by a circuit court under ORS 183.484. The record on review by the Supreme Court shall be the record established in the council proceeding on the exemption.

(5) Notwithstanding subsection (1) of this section, a separate site certificate shall not be required for:

(a) Transmission lines, storage facilities, pipelines or similar related or supporting facilities, if such related or supporting facilities are addressed in and are subject to a site certificate for another energy facility;

(b) Expansion within the site or within the energy generation area of a facility for which a site certificate has been issued, if the existing site certificate has been amended to authorize expansion; or

(c) Expansion, either within the site or outside the site, of an existing council certified surface facility related to an underground gas storage reser-

voir, if the existing site certificate is amended to authorize expansion.

(6) If the substantial loss of the steam host causes a facility exempt under subsection (2)(c) of this section to substantially fail to meet the exemption requirements under subsection (2)(c) of this section, the electric generating facility shall cease to operate one year after the substantial loss of the steam host unless an application for a site certificate has been filed in accordance with the provisions of ORS 469.300 to 469.563.

(7) As used in this section:

(a) "Standby generation facility" means an electric power generating facility, including standby generators and the physical structures necessary to install and connect standby generators, that provides temporary electric power:

**(A)** In the event of a power outage and that is electrically incapable of being interconnected with the transmission grid; or

**(B) Consistent with 40 C.F.R. 63.6640(f), as in effect on the effective date of this 2024 Act.**

(b) "Total energy output" means the sum of useful thermal energy output and useful electrical energy output.

(c) "Useful thermal energy" means the verifiable thermal energy used in any viable industrial or commercial process, heating or cooling application.

(8)(a) If the developer of a facility elects, or the governing body of the local government after consulting with the developer elects, to defer regulatory authority to the Energy Facility Siting Council, the developer of a facility shall obtain a site certificate, in the manner provided in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992, for a facility that, notwithstanding the definition of "energy facility" in ORS 469.300, is:

(A) An electric power generating plant with an average electric generating capacity of less than 50 megawatts produced from wind energy at a single energy facility or within a single energy generation area;

(B) An associated transmission line; or

(C) A solar photovoltaic power generation facility that is not an energy facility as defined in ORS 469.300 (11)(a)(D).

(b) An election by a developer or a local government under this subsection is final.

(c) An election by a local government under this subsection is not a land use decision as defined in ORS 197.015.

(d) A local government may not make an election under this subsection after a permit application has been submitted under ORS 215.416 or 227.175.

**SECTION 10. Section 11 of this 2024 Act is added to and made a part of ORS 469.010 to 469.155.**

**SECTION 11. (1) A public utility, as defined in ORS 757.005, that operates a dispatchable standby generation program to support grid reliability shall, no later than June 1 of each year,**

report to the Director of the State Department of Energy the following information related to the operation of generators in the program in the previous calendar year:

(a) The aggregated number and nameplate capacity of the generators;

(b) The total and average hours of operation of the generators;

(c) The aggregated amounts of fuels, by type, used annually;

(d) The availability of renewable fuels in the regional market for standby generators in the program; and

(e) Compliance with ORS 469.320 (2)(g)(C)(ii).

(2) Within 30 days of receiving the information reported under subsection (1) of this section, the director shall cause the information to be posted on a publicly available website.

#### HEAT PUMP GRANTS AND REBATES

**SECTION 12.** (1) Notwithstanding ORS 469B.466, moneys in the Heat Pump Deployment Fund on July 1, 2024, that have been allocated by the State Department of Energy for the purpose of awarding grants under ORS 469B.460 but have not been awarded as a grant are transferred to the Residential Heat Pump Fund established under section 21, chapter 86, Oregon Laws 2022, to be expended for the purposes described in that section and subsection (2) of this section.

(2)(a) Moneys transferred under subsection (1) of this section shall be expended for the pur-

pose of providing grants and rebates under sections 19 and 20, chapter 86, Oregon Laws 2022, and associated administrative costs and expenses, in regions and for members of federally recognized Indian tribes for which no eligible entity has been awarded a grant under ORS 469B.460.

(b) The department shall allocate an amount for each region or federally recognized Indian tribe described in this subsection that is equal to the amount previously allocated by the department for that region or tribe under ORS 469B.460.

#### CAPTIONS

**SECTION 13.** The unit captions used in this 2024 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2024 Act.

#### EFFECTIVE DATE

**SECTION 14.** This 2024 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2024 Act takes effect on its passage.

Approved by the Governor March 27, 2024

Filed in the office of Secretary of State March 27, 2024

Effective date March 27, 2024