OFFICE OF THE SECRETARY OF STATE
TOBIAS READ
SECRETARY OF STATE

MICHAEL KAPLAN
DEPUTY SECRETARY OF STATE

ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

PERMANENT ADMINISTRATIVE ORDER

DOE 2-2026

CHAPTER 330
DEPARTMENT OF ENERGY

FILED: 10/22/2026 4:45 PM
ARCHIVES DIVISION SECRETARY OF STATE & LEGISLATIVE COUNSEL

FILING CAPTION: Amending State Agency Savings Program to implement changes under House Bill 3409 (2023)

EFFECTIVE DATE: 10/23/2026

AGENCY APPROVED DATE: 10/22/2026

CONTACT:
Wendy Simons
971-707-0044
wendy.simons@energy.oregon.gov
550 NE Capitol St First Floor
Salem, OR 98301

Filed By:
Wendy Simons
Rules Coordinator

RULES:
330-118-0000, 330-118-0010, 330-118-0020, 330-118-0025, 330-118-0030, 330-118-0040, 330-118-0050, 330-118-0055, 330-118-0070, 330-118-0080, 330-118-0090

AMEND: 330-118-0000

RULE TITLE: Purpose

NOTICE FILED DATE: 08/27/2026

RULE SUMMARY: Changes rate for state agency retention of energy cost savings from 50 to 100 percent; implementing change made by House Bill 3409 (2023).

RULE TEXT:
OAR 330-118-0000 through 330-118-0090 allows state agencies to retain and spend 100 percent of the net savings from energy projects pursuant to ORS 469.752 to 469.756.

STATUTORY/OTHER AUTHORITY: ORS 469.752 - 469.756

STATUTES/OTHER IMPLEMENTED: ORS 469.752 - 469.756, Oregon Laws 2023 Chapter 442 (HB 3409)

AMEND: 330-118-0010

RULE TITLE: Definitions

NOTICE FILED DATE: 08/27/2026

RULE SUMMARY: Amends definitions for terms used in Division118: updates reference to relevant office within Oregon Department of Administrative Services; adds definition of "Director" which refers to ODOE director; updates the definition of "electric utility" to clarify that projects in consumer-owned utility service territories are eligible; clarifies that transportation projects that improve energy efficiency are eligible in addition to projects saving vehicle miles traveled; clarifies that performance measures for individual projects will be established by the implementing state agency; and renumbers existing definitions.

RULE TEXT:
The following definitions apply in Oregon Administrative Rules Division 330-118:
(1) “Baseline Energy Budget” means the expenditure limitation amount budgeted for energy costs by the agency immediately prior (i.e., the weather-normalized previous twelve months if available) to installation of the project.
(2) “Chief Financial Office” means the Chief Financial Office of the Oregon Department of Administrative Services.
(3) “Cogeneration” has the meaning given that term in ORS 758.505(2).
(4) “Department” means the Oregon Department of Energy.
(5) “Director” means the director of the Oregon Department of Energy.
(6) “Efficiency of Energy Use” means the ratio of output (work done) to input (energy used).
(7) “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.
(8) “Energy Cost savings” means the dollar savings based on the annual monitored savings from the project calculated as follows:
(a) For projects which do not sell energy or power to an electric utility or the Bonneville Power Administration, energy savings times the last rate in effect or fuel cost during the monitored savings period;
(b) For projects which sell energy or power, the amount of energy or power delivered to one or more electric utilities or the Bonneville Power Administration as a result of the project times the rates(s) stated in the energy or power sales agreement(s);
(c) For projects which do not either sell or use all of their energy or power savings or production, the energy cost savings shall be the sum of amounts proportionally calculated as in subsection (a) and (b) of this section.
(9) “Energy Savings” means the amount of energy not used as a result of the project as compared to a prior period. Prior period energy use may be adjusted for changes in building use or occupancy. Energy savings shall be measured in millions of Btus (MMBtus), and may be the result of vehicle, aircraft or vessel miles not travelled or more efficient or less energy-intensive use of vehicles, aircraft or vessels.
(10) “Gas Utility” means a public utility as defined in ORS 757.005(1)(a)(A) which provides natural gas service to consumers.
(11) “Infrastructure Improvements” means improvements to facilities, buildings, equipment and other components which make up and support the physical structure of the agency.
(12) “Monitored Savings” means measurements of actual energy savings or the miles reduced per vehicle, and may include, but not be limited to, energy accounting systems, energy bill comparisons, and metering. Subject to the approval of the Department, engineering estimates may be used in cases where measurement of actual savings is not practical.
(13) “Net Savings” means the operating savings and the energy cost savings, after debt service, leases, operations and maintenance costs, service contracts, insurance, fuels and their transport and storage, transmission, and other recurring direct costs, resulting from a project. Net savings shall accrue only during the savings period.
(14) “Operating Savings” means reduction or elimination of: labor or service contracts; demand charges; chemicals; maintenance of energy consuming conversion and distribution equipment; replacement equipment; and lubricants and

maintenance expenses in the case of vehicles, aircrafts, and vessels; providing each item is $1,000 or more annually.
(15) “Performance Measures” means performance measures, established for a project by the state agency, that address energy use in buildings, facilities, and transportation. Wherever possible the performance measures should be based on monitored savings, or metered power and energy production.
(16) “Project” means a state agency’s effort toward the improvement of the efficiency of energy use, development of cogeneration facilities or use of renewable resources by or at state facilities. For the purposes of these rules, a project includes only those agency activities which the agency is pursuing under the authority of ORS 469.754.
(17) “Renewable Resources” has the meaning given that term in ORS 758.505(9)(a).
(18) “Revolving Fund” means a fund in the State Treasury, or a separate account or fund in the General Fund in the State Treasury, that by law is dedicated, appropriated or set aside for the purposes listed in ORS 469.754(3). “Revolving fund” does not have the meaning used in 291.002 or the State Accounting Manual, Section 21 05 01(4) self-sustaining accounts.
(19) “Savings Period” means:
(a) For energy efficiency projects without an energy or power sales contract with an electric utility or the Bonneville Power Administration, the expected useful life of the project;
(b) For energy efficiency, cogeneration or renewable resource projects which provide energy or power pursuant to a contract with an electric utility or the Bonneville Power Administration, the term of the contract or the expected useful life of the project whichever is greater; or
(c) For cogeneration and renewable resource projects without an energy or power sales contract with an electric utility or the Bonneville Power Administration, the expected useful life of the project;
(d) For projects which provide energy or power to any combination of the state agency, an electric utility or the Bonneville Power Administration, the longest term of any energy or power sales contract or the expected useful life of the project, whichever is greater.
(20) “Service” has the meaning given that term in ORS 856.010.
(21) “State Agency” has the meaning given that term in ORS 278.005
(22) “State Facility” means the land and all buildings, structures, improvements, machinery, equipment or fixtures, and tangible personal property including, but not limited to vehicles, aircraft, vessels as defined by ORS 278.005, moveable machinery and equipment, and moveable fixtures, which are erected or operated on, above or under the land, which is owned, leased, controlled or possessed by a state agency.
[Publications: Publications referenced are available from the agency.]

STATUTORY/OTHER AUTHORITY: ORS 469.752 - 469.756

STATUTES/OTHER IMPLEMENTED: ORS 469.752 - 469.756, Oregon Laws 2023 Chapter 442 (HB 3409)

AMEND: 330-118-0020

RULE TITLE: Project Eligibility

NOTICE FILED DATE: 08/27/2026

RULE SUMMARY: Removes rule language referring to "right of first refusal," which refers to a requirement that was removed from the program by HB 3409 (2023). Clarifies that projects using funds from multiple sources, including dedicated funds and/or federal funds in addition to state General Funds, may only deposit into the revolving fund the share of energy savings attributable to General Fund expenditures.

RULE TEXT:
(1) Eligible projects include, but are not limited to, the following:
(a) Projects which improve efficiency or attain high efficiency of energy use through energy system or process changes, equipment replacement, or waste heat recovery;
(b) Projects consisting of measures meeting energy efficiency criteria encouraged or approved by the Department or by the electric or gas utilities providing service to the state facility;
(c) Employee awareness campaigns and on-going training; and
(d) Projects that meet these eligibility requirements, that began construction or installation after July 27, 2023, and that were not completed prior to final adoption of rules.
(2) Projects are not eligible if the payback period for the project exceeds the term of the current state lease for that facility.
(3) Projects which use funds from multiple sources and which cause energy savings attributable to multiple funding sources, included dedicated funds and/or federal funds as well as General Funds, may only deposit into the revolving fund the share of energy savings attributable to General Fund expenditures.
(4) In the event eligibility is unknown or disputed, the party(ies) may petition the Director of the Department for a decision. The Director's decision shall be final.

STATUTORY/OTHER AUTHORITY: ORS 469.752 - 469.756

STATUTES/OTHER IMPLEMENTED: ORS 469.752 - 469.756, Oregon Laws 2023 Chapter 442 (HB 3409)

AMEND: 330-118-0025

RULE TITLE: Project Notice

NOTICE FILED DATE: 08/27/2026

RULE SUMMARY: Deletes references to rules relating to "right of first refusal" which are repealed by this rulemaking. Corrects typographical error. Reformats list of exempt project types for clarity.

RULE TEXT:
(1) Whenever an agency proposes to undertake a project under ORS 469.754 the state agency shall provide a notice to either a mailing list of interested persons developed by the state agency or to a website developed by the Department for this purpose. The notice shall be provided to any requesting person and include a statement of whether the agency intends to rely on the authority in ORS 469.754 and these rules, or whether the agency intends to rely on its own authority to proceed with the project.
(2) When a state agency intends to proceed with a project other than listed in section (3) of this rule, the notice shall, in addition to the information above, include:
(a) The physical location of the project(s);
(b) The anticipated size or size range of the project(s) stated in annual energy (in kWh or Btu) or capacity (in kW, horsepower or pressure), and its anticipated seasonal disposition;
(c) Whether the project(s) may provide steam or useful heat, and its anticipated seasonal disposition;
(d) A description of how the project(s) could be developed, financed and operated;
(e) An intended schedule for completion and operation of the project(s); and
(f) The anticipated fuel source(s).
(3) The following projects planned by a state agency are exempt from the competitive procurement requirements under OAR 330-118-0040:
(a) a project costing less than $50,000;
(b) an energy efficiency project encompassing under 50,000 square feet;
(c) a project affecting the efficiency of energy use in transportation;
(d) a renewable resources project which does not generate electricity;
(e) an employee awareness campaign; or
(f) a project with a useful life of less than 5 years.

STATUTORY/OTHER AUTHORITY: ORS 469.752 - 469.756

STATUTES/OTHER IMPLEMENTED: ORS 469.752 - 469.756, Oregon Laws 2023 Chapter 442 (HB 3409)

REPEAL: 330-118-0030

RULE TITLE: Right of First Refusal

NOTICE FILED DATE: 08/27/2026

RULE SUMMARY: Repeals -0030 because HB 3409 deleted "right of first refusal" requirement for energy generating projects under the rules.

RULE TEXT:
(1) To exercise their right to first negotiate and right of first refusal the electric and gas utilities which serve the project's domicile must submit a proposal in response to an agency's procurement solicitation.
(2) A state agency shall provide the electric and gas utilities which serve the project's domicile, and any other potential suppliers, timely access to the project site for the audit and planning purposes.
(3) An electric or gas utility which serves the project's domicile that wants to negotiate for or to match any sales of a project's electrical or steam output which may be sold must state such interest in their proposal in response to the agency's procurement solicitation.
(4) A state agency is not obligated by these rules to commit to utility proposals to buy electricity, develop, finance, operate or otherwise act together in energy conservation or cogeneration and renewable resource projects which generate electricity or sell energy or power to electric utilities or the Bonneville Power Administration. These rules do not alter the agency's or utility's rights and obligations under ORS 758.505–758.555 and 18 CFR 292. et seq.

STATUTORY/OTHER AUTHORITY: ORS 469.752 - 469.756

STATUTES/OTHER IMPLEMENTED: ORS 469.752 - 469.756

AMEND: 330-118-0040

RULE TITLE: Selection of Project Vendors and Participants

NOTICE FILED DATE: 08/27/2026

RULE SUMMARY: Deletes language relating to the provision granting the agency's utility the "right of refusal" to construct the project which was deleted under HB 3409, specifically language that would have required the agency to notify the agency's utility about procurements related to the project and guidelines for the contractor selection process when a utility exercised the "right of first refusal." Deletes rule language detailing procurement requirements in favor of allowing state agencies to follow applicable agency and state procurement rules and regulations.

RULE TEXT:
Agencies shall undertake competitive procurements for projects. The agency’s applicable rules and regulations for competitive procurement and confidentiality shall apply along with additional authorities vested in the agency by ORS 469.752–469.756. Nothing in these rules requires an agency to use a competitive procurement for exempt projects per OAR 330-118-0020(2).

STATUTORY/OTHER AUTHORITY: ORS 469.752 - 469.756

STATUTES/OTHER IMPLEMENTED: ORS 469.752 - 469.756, Oregon Laws 2023 Chapter 442 (HB 3409)

REPEAL: 330-118-0050

RULE TITLE: Negotiating Agreement

NOTICE FILED DATE: 08/27/2026

RULE SUMMARY: Repeals -0050; as specified in -0040, state agencies must follow their own internal rules and guidelines, as well as Department of Administrative Services rules and guidelines, for negotiating and executing contracts with vendors to design and construct projects.

RULE TEXT:
The agency is authorized to enter into such contractual and other arrangements as may be necessary or convenient to design, develop, operate and finance a project at state-owned or state-rented facilities. Utilities may be vendors. The procedure shall be:
(1) Upon entering into a commitment with a vendor, the agency appoints representative(s) to work with the vendor to develop the project. Within three months the agency representative(s) and the vendor complete a project plan, including commissioning and training; develop a detailed budget; decide the allocation of risks and responsibilities of each party from project development through operation; determine costs to be assumed by the agency and by the vendor; determine length of agreement; set timelines.
(2) The agency and the vendor execute a written agreement within two months of completing the above tasks.
(3) The Department resolves disputes between agency and vendor arising from the project. The director’s decision is final.
(4) If changes to the project are made subsequent to the written agreement, the agreement may be amended.

STATUTORY/OTHER AUTHORITY: ORS 469.752 - 469.756

STATUTES/OTHER IMPLEMENTED: ORS 469.752 - 469.756

REPEAL: 330-118-0055

RULE TITLE: Disposition of Steam and Electricity

NOTICE FILED DATE: 08/27/2026

RULE SUMMARY: Repeals rule 330-118-0055 which provides a process for the sale of energy by an energy generating project, including provisions for the local utility to have the "right of first refusal" to purchase the energy generated. HB 3409 removed the "right of first refusal," meaning that -0055 is no longer needed.

RULE TEXT:
(1) An agency is not obligated to sell any or all of a project's energy, power, steam, or any other energy form.
(2) If an electric or gas utility which serves the project's domicile has responded according to OAR 330-118-0030(3) the agency shall initiate an auction for the sales of the electric output or steam which the utility has expressed interest in acquiring. The auction shall be open to all potential buyers of the energy and solicit bids. Upon evaluation of bids, and with consultation with the Department, the agency may select buyer(s) for contract negotiations. The agency reserves the right to reject all proposals. If an agency determines that negotiations are at an impasse, it may terminate negotiations and select another buyer. If an agency judges an offer from an electric or gas utility which serves the project's domicile to be of equal merit to the highest ranking offer, the utility's offer shall be deemed a match and be selected for contract negotiations, all else equal. Upon written notice from the agency at the close of the auction the electric and gas utilities which serve the state facility where the project is domiciled shall have the right to match the best offer available to the agency for a period of 30 days. The agency may use competitive negotiations to select the best offer. The utility will have the right to match the best offer whether or not competitive negotiations are used. Should two utilities which serve the project's domicile be judged to have the highest ranking offers, the agency may select either one. Criteria for selecting buyers of steam and electricity shall include:
(a) Transaction costs;
(b) Risks retained by the agency;
(c) Term; and
(d) Impact on estimated net savings over the life of the project.
(3) Nothing in these rules impairs an agency's rights under any other provisions of law including rights to market energy from qualifying facilities according to ORS 758.505–758.555 and the implementing rules and orders of the Oregon Public Utility Commission, and 18 CFR 292 et. seq. Nothing in these rules affects any authority, including the authority of a state agency or a municipality to regulate utility service or the development and use of electricity, gas or steam.

STATUTORY/OTHER AUTHORITY: ORS 469.752 - 469.756

STATUTES/OTHER IMPLEMENTED: ORS 469.752 - 469.756

AMEND: 330-118-0070

RULE TITLE: Retaining Net Savings

NOTICE FILED DATE: 08/27/2026

RULE SUMMARY: Makes conforming amendments to change agency retention of energy cost savings from 50 percent to 100 percent, per HB3409 (2023). Changes recipient of agency notifications and reports to the Oregon Department of Energy rather than the DAS Budget and Management Division. Adds ability for agency to provide notification using a website portal provided by ODOE. Updates reference of approving entity for funds transfer to the DAS Chief Financial Office.

RULE TEXT:
A state agency that implements a project in accordance with this rule may retain 100 percent of the net savings and maintain its baseline energy budget by:
(1) Prior to implementation of the project, the agency shall submit to the Department:
(a) Notification in writing or on website portal of their intent to exercise their 100 percent savings option, pursuant to ORS 469.754; and
(b) Performance measures pertaining to the project.
(2) The agency shall send annual reports of monitored savings and net savings for the project to the Department by September 1 of each year.
(3) Upon approval by the Chief Financial Office, the agency shall transfer the amount of the accrued net savings from its operations account to the revolving fund.

STATUTORY/OTHER AUTHORITY: ORS 469.752 - 469.756

STATUTES/OTHER IMPLEMENTED: ORS 469.752 - 469.756, Oregon Laws 2023 Chapter 442 (HB 3409)

AMEND: 330-118-0080

RULE TITLE: Use of Savings

NOTICE FILED DATE: 08/27/2026

RULE SUMMARY: Makes conforming amendment to change energy savings retention from 50 percent to 100 percent, per HB 3409 (2023). Deletes obsolete language. Updates reference to DAS Chief Financial Office.

RULE TEXT:
A state agency shall spend the net savings to increase productivity through: Energy efficiency projects; high-tech improvements; or infrastructure improvements. The agency shall submit to the Chief Financial Office a plan for use of the revolving fund through the biennial budget process.

STATUTORY/OTHER AUTHORITY: ORS 469.752 - 469.756

STATUTES/OTHER IMPLEMENTED: ORS 469.752 - 469.756, Oregon Laws 2023 Chapter 442 (HB 3409)

AMEND: 330-118-0090

RULE TITLE: Agreements with the Department for Technical Assistance

NOTICE FILED DATE: 08/27/2026

RULE SUMMARY: Removes references to the Small-Scale Energy Loan Program which is no longer operational.

RULE TEXT:
The agency may submit written requests to the Department for specific assistance, including but not limited to marketing of energy and power, engineering, architectural, and energy analysis. At the discretion of the Department, the Department and the agency may execute an Interagency Agreement, in accordance with ORS Chapter 190. The Department reserves the right to charge the agency fees for work such as arbitration, project-related analysis, or technical review.

STATUTORY/OTHER AUTHORITY: ORS 469.752 - 469.756

STATUTES/OTHER IMPLEMENTED: ORS 469.752 - 469.756, Oregon Laws 2023 Chapter 442 (HB 3409)