

Business Energy Tax Credit

Permanent Rules, effective November 23, 2010

Summary of changes made since May 27, 2010 Temporary Rules

The Oregon Department of Energy filed permanent rules for the Business Energy Tax Credit program on November 23, 2010. These rules encompass the temporary rules that went into effect May 27, 2010 plus additional changes. These changes resulted from public comment, stakeholder input and ODOE internal review.

Completed Application: ODOE clarified that a complete final application for a project owner choosing to transfer the tax credit must include a signed pass-through partner agreement form, see **OAR 330-090-0110(15)**. This requirement is in addition to the complete final certification application form that all project owners submit. Also a provision allows ODOE to hold these incomplete applications until the pass-through partner agreement form is received, so long as the pass-through partner agreement form is the only missing part of the final application, see **OAR 330-090-0133(1)(a)(A)**.

High Performance Homes: ODOE clarified the definition to allow row homes and townhomes to be eligible, a detached single-family dwelling unit or a single-family dwelling unit constructed in a group of two or more attached units in which each unit extends from foundation to roof and with open space on at least two sides, see **OAR 330-090-0110(33)(k)**.

Trucking Requirements: ODOE aligned trucking requirements with other conservation project requirements. ODOE aligned the simple payback period to more than one year up to 15 years, see **OAR 330-090-0110(72)(m)(E)**. In addition, ODOE discarded the requirement that each trucking project had to include an auxiliary power unit, rather retrofitting or installing one or more USEPA SmartWay efficiency measures may meet the requirements, see **OAR 330-090-0110(72)(m)(A)(i)**. To assist with administering the 25 percent tax credit, for projects with vehicles that document 15 to 50 percent of the annual mileage in Oregon, these projects are eligible for a 35 percent tax credit of 71.5 percent of their facility's otherwise eligible certified costs, see **OAR 330-090-0110(72)(m)(B)**.

Amendments to Renewable Energy Preliminary Certifications: ODOE removed the distinction between preliminary certificates issued before or after June 1, 2009, see **OAR 330-090-0130(7)(c)**. Now all requests for an amendment to a renewable energy preliminary certification are evaluated using the same list of eligible considerations. The eligible considerations are: equipment capacity within 10 percent of the approved specification; amendments to the facility that do not result in an increased potential tax credit amount, but increase output or otherwise improve the facility; or changes in ownership.

Safe Harbor Date to Submit Final Applications: ODOE created a safe harbor date to assist project owners in planning for the program's sunset, at which time a project must receive final certification before July 1, 2012, see **OAR 330-090-0133(1)(b)**. To receive final certification, the project must be complete, the project owner must submit the final application, ODOE must review the project and ODOE must issue a final certification. To assist with this process, ODOE will process a complete final certification application received by April 30, 2012 prior to the program sunset. ODOE does not guarantee a final certification application received after April 30, 2012 will be processed prior to the program sunset. The safe harbor date aligns with the 60-day period ODOE has to process final applications. For final pass-through applications, for which ODOE has not received the pass-through agreement form at least sixty days prior to the sunset, ODOE may issue the Final Certificate to the facility owner, see **OAR 330-090-0133(1)(a)(C)**.