

**STATEMENT OF NEED AND JUSTIFICATION**

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Oregon Department of Energy

330

Agency and Division

Administrative Rules Chapter Number

In the Matter of:

The treatment of Federal Grants received in connection with a facility eligible for a Business Energy Tax Credit.

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

Clarifies treatment of federal grants received in connection with a facility eligible for a BETC.

Statutory Authority: ORS 469.040, 469.165, 469.185-469.225, Oregon Laws 2010, Chapter 76

Other Authority:

Stats. Implemented: ORS 315.356, 469.215

Need for the Temporary Rule(s):

Clarification is needed regarding the treatment of federal grants received in connection with a facility eligible for a Business Energy Tax Credit (BETC). These rules clarify that federal grants received in connection with a facility reduce the BETC final certified cost of the facility dollar for dollar, as required by ORS 315.356. The rules also clarify that for certain facilities grants received under section 1603 of the American Recovery and Reinvestment Act of 2009 (ARRA) will reduce the BETC certified cost dollar for dollar. The rules also provide needed definitions of "certified cost" and "federal grant".

Documents Relied Upon, and where they are available:

ORS 315.356, 469.215


American Recovery and Reinvestment Act (P.L. 111-5, 2/17/09), section 1603

"Payments for Specified Energy Property in Lieu of Tax Credits Under the American Recovery and Reinvestment Act of 2009, Program Guidance," (available at <http://www.treasury.gov/initiatives/recovery/documents/guidance.pdf>)

Justification of Temporary Rule(s):

The agency finds that prompt action to adopt these rules is needed to avoid serious prejudice to applicants for Business Energy Tax Credits (BETCs) for the following reasons: 1) there are no statutory definitions and the current rules do not define certified cost or federal grant for purposes of the reduction to the BETC certified cost by federal grants required under ORS 315.356; 2) the current rules are not clear as to what is meant by "certified cost" and when that cost must be reduced by a federal grant received in connection with a facility; 3) the current rules do not provide guidance to applicants as to whether ARRA section 1603 grants are included with the federal grants that reduce BETC final certified cost. Without these rules, BETC applicants will not have clear guidance regarding the requirements of ORS 315.356 and the reduction to certified costs for federal grants received in connection with their facilities. With these rules, BETC applicants will have clear notice that, where applicable, the BETC final certified cost for purposes of calculating the amount of the tax credit will be reduced by any federal grants received in connection with the facility.

  
 Authorized Signer

  
 Printed name

  
 Date