

DIVISION 170

BIOMASS PRODUCER AND COLLECTOR TAX CREDIT CERTIFICATION RULES

330-170-0010 PURPOSE AND SCOPE

- (1) OAR chapter 330, division 170 establishes the procedure and criteria for certifying tax credits under ORS 315.141 and ORS 469.790.
- (2) These rules apply to tax years beginning on or after January 1, 2010, and before January 1, 2013.

Stat. Auth.: ORS 315.141, ORS 469.790.
Stats. Implemented: ORS 315.141 & ORS 469.790.
Hist.:

330-170-0020 DEFINITIONS

For the purposes of OAR chapter 330, division 170, unless otherwise specified, the following definitions shall apply:

- (1) "Agricultural Producer" has the meaning provided in ORS 315.141.
- (2) "Biofuel" has the meaning provided in ORS 315.141.
- (3) "Biomass" has the meaning provided in ORS 315.141 except that, in accordance with ORS 315.141 (2):
 - (a) Biomass does not include woody material used to produce split cord wood, firewood, or charcoal briquettes.
 - (b) Biomass does include oil seed crops, grain crops, grass, wheat, straw, or other vegetative biomass used to produce virgin oil or alcohol for Biofuel.
- (4) "Biomass Collector" has the meaning provided in ORS 315.141.
- (5) "Biofuel Producer" has the meaning as provided in ORS 315.141.
- (6) "Certificate" means a document issued by the department representing the right to claim a tax credit described in ORS 315.141 for the amount described on the certificate.
- (7) "Department" means the Oregon Department of Energy.
- (8) "Director" means Director of the Oregon Department of Energy.
- (8) "Person"
 - (a) Means an individual or a legal entity (including but not limited to any domestic or foreign corporation, trust, partnership, cooperative, or limited liability company), regardless of whether the entity is treated as a separate entity for income tax purposes.
 - (b) Does not include a nonprofit organization or a government entity.

Stat. Auth.: ORS 315.141, ORS 469.790. Stats. Implemented: ORS 315.141 & ORS 469.790.
Hist.:

330-170-0030 ELIGIBLE APPLICANT

- (1) To be eligible for certification, the applicant must:
- (a) Be an Agricultural Producer or Biomass Collector;
 - (b) Have title to the biomass at the time the biomass is delivered to the Biofuel producer;
 - (c) Produce or collect the biomass in Oregon; and
 - (d) Deliver or facilitate the delivery of the biomass to be processed into virgin oil or alcohol, to be used as Biofuel in Oregon, or to be used to produce Biofuel in Oregon.
- (2) The biomass must meet the definition in these rules and be listed in ORS 469.790

Stat. Auth.: ORS 315.141, ORS 469.790.

Stats. Implemented: ORS 315.141 & ORS 469.790.

Hist

330-170-0040 APPLICATION PROCESS

- (1) Persons claiming a tax credit under ORS 315.141 must apply for certification in a manner determined by the Department. The application must include:
- (a) An application form, provided by the Department, completed and signed by the applicant;
 - (b) Proof that the Agricultural Producer or Biomass Collector held title to the biomass at the time the biomass was delivered to a Biofuel Producer;
 - (c) Documentation indicating the physical address, township, range, section, and quarter section, or other specific geographic indicator of the origination of the biomass;
 - (d) Weight ticket(s) indicating the date, type, and amount of the biomass from a scale licensed by Oregon Department of Agriculture Measurement Standards Division;
 - (e) Receipts from the Biofuel Producer(s) indicating the amount of biomass delivered to it by the Agricultural Producer or Biomass Collector and a signed statement from the Biofuel Producer indicating the amount of biomass that was used or is to be used as Biofuel or to Produce Biofuel;
 - (f) A summary table including the following:
 - (i) The date of each shipment of the biomass;
 - (ii) The type of biomass included in each shipment;
 - (iii) The amount of biomass in each shipment;
 - (iv) The origination of the biomass;
 - (v) The weight ticket number or a similar identifier; and
 - (vi) The delivery location of the biomass;
 - (g) All calculations used to convert the measure of the biomass to another measure and source references for the calculations and all variables; and
 - (h) An application fee equal to xxx multiplied by the total amount of tax credits requested.

(2) Biomass Collectors that collect animal manure must include the following information with the application if it is not practicable to provide weight tickets for animal manure or receipts from the Biofuel Producer:

(a) Documentation demonstrating the following methodology to determine the amount of animal manure eligible for a tax credit:

(i) The log of animal numbers: [Average number of animals on the farm, by classification, (conduct a separate calculation for milkers, dry cows, heifers, calves)] multiplied by [the average lbs./1,000] = number of 1,000 pound animal units.

(ii) The amount of manure generated: [the number of 1,000 pound animal units] multiplied by [the average manure production value from the Natural Resources Conservation Service Agricultural Waste Management Field Handbook] multiplied by [the number of days in the period,] divided by [2,000 pounds]; and

(b) Documentation indicating the manure was used or is to be used as Biofuel or to produce Biofuel.

(3) Agricultural producers that produce oil seed crops, grain crops, grass, wheat, straw or other vegetative biomass that is used to produce virgin oil or alcohol; and that complete the crushing or processing of the biomass into virgin oil, alcohol or Biofuel, must include the following records with their application if it is not practicable to provide weight tickets or receipts:

(a) Documentation submitted to the U.S. Department of Agriculture Farm Service Agency of acreage planted to the Biofuel crop and the amount of Biofuel crop produced;

(b) Crop insurance records of acreage planted to the Biofuel crop and the amount of Biofuel crop produced; and

(c) Documentation indicating the biomass was used or is to be used to produce virgin oil or alcohol, as Biofuel, or to produce Biofuel may be submitted in place of receipts from the Biofuel Producer.

(4) An application must be received no later than 45 days from the end of the tax year, as defined in Internal Revenue Code.

(5) The Department may require the applicant to provide further information needed for the Department to complete a review of the application.

(6) The Department may require the applicant to pay reasonable costs incurred in connection with reviewing the application that exceed the original application fee and which the Director determines are incurred solely in connection with processing the application. The Department shall advise the applicant of any additional costs the applicant must pay before the Department incurs the costs.

Stat. Auth.: ORS 315.141, ORS 469.790.

Stats. Implemented: ORS 315.141 & ORS 469.790

Hist.:

330-170-0050 CERTIFICATION AND DENIAL

(1) The Department shall certify the application for a tax credit when the Department has reviewed an application and determined the following criteria are met:

- (a) The applicant is an Agricultural Producer or Biomass Collector;
- (b) The applicant collects or produces biomass in Oregon;
- (c) The applicant and holds title to the biomass at the time the biomass is delivered;
- (d) The biomass is used, or is to be used, as Biofuel or to produce Biofuel in Oregon; and
- (e) All requirements set by applicable statutes and these rules are met.

(2) If the Department approves the application the Director will issue a certificate to the applicant identifying the name of the certificate holder, the biomass, and the amount of the tax credit certified. A certificate shall only be provided to biomass meeting the definition in these rules and for which a credit rate is provided in ORS 469.790.

(3) If the Director does not approve the application the Director will provide written notice of denial, including a statement of the findings and reasons for the denial, by regular and certified mail. The Director may deny the application if:

- (a) The application does not meet the criteria set forth in these rules;
- (b) The application is not complete;
- (c) The applicant does not provide information requested by the Department in a reasonable time after the Director requests it;
- (d) The applicant has filed an application for a certificate that, as of the date the certificate was issued or the date of an order denying the application, was incomplete in any material respect or contained a statement that, in light of the circumstances under which it was made, was incorrect or misleading in any respect.
- (e) The application does not otherwise comply with all applicable statutory provisions and rules.

(4) No later than 60 days after the Director issues a decision, the applicant or certificate holder may request reconsideration in writing.

Stat. Auth.: ORS 315.141, ORS 469.790.

Stats. Implemented: ORS 315.141 & ORS 469.790.

Hist.:

330-170-0070 INSPECTION

(1) For the purposes of these rules, the Department may inspect the records and facilities of any person to whom the Department has issued a certificate under these rules and may inspect a Biofuel Producer associated with the biomass identified on the certificate. The Department shall schedule such inspection during normal working hours following reasonable notice to the party to be inspected.

Stat. Auth.: ORS 315.141 & ORS 469.790.

Stats. Implemented: ORS 315.141 & ORS 469.790.

Hist.:

330-170-0080 TRANSFERABILITY

(1) Certificates issued under ORS 315.141 may be transferred to another person as set forth in ORS 315.144.

Stat. Auth.: ORS 315.141 & ORS 469.790.

Stats. Implemented: ORS 315.141 & ORS 469.790.

Hist.:

330-170-0090 MINIMUM DISCOUNT VALUE

(1) The minimum discounted value of this tax credit is xxx

(2) Tax credits certified under these rules may be transferred for any amount greater than the minimum discounted value established herein.

Stat. Auth.: ORS 315.141 & ORS 469.790.

Stats. Implemented: ORS 315.141 & ORS 469.790.

Hist.: