

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form.

| | | |
|-----------------------------|--------------------------------------|----------------|
| Oregon Department of Energy | 330 | |
| Agency and Division | Administrative Rules Chapter Number | |
| Kathy Stuttaford | 625 Marion Street NE, Salem OR 97301 | (503) 378-4040 |
| Rules Coordinator | Address | Telephone |

RULE CAPTION

Amending Biomass Tax Credit rules to increase application fee and clarify eligibility and application process.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

| | | | |
|------------------|-----------|--|------------------|
| October 24, 2013 | 2:00 p.m. | Oregon Department of Energy 625 Marion Street NE Salem, OR 97301 | Elizabeth Ross |
| Hearing Date | Time | Location | Hearings Officer |

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND: OAR 330-170-0010, 330-170-0020, 330-170-0030, 330-170-0040, 330-170-0050, 330-170-0060

REPEAL:

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 469.040, 469B.403, 315.141

Other Auth.:

Stats. Implemented: ORS 469B.403, 315.141

RULE SUMMARY

The proposed rules for the Biomass Producer or Collector Tax Credit program provide additional details about the application contents and expectations, and clarify the eligibility of biomass feedstocks and activities. The proposed rules add clarity and transparency for applicants and assist the Oregon Department of Energy in administering the certification process. ORS 315.141(5)(b) directs the department to collect a fee not to exceed the cost of administering the program. Currently, the department is not collecting fees sufficient to recover the actual cost of the program. The proposed fee increase was explained and included in the budget approved by the legislature as part of the 2013-2015 budget process.

A call-in number is available for the public hearing, please see website for details:

http://www.oregon.gov/energy/RENEW/Biomass/Pages/Biomass-Producer_Advisory_Committee.aspx

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

October 25, 2013 by close of business (5 p.m.)

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

| | | |
|-----------|--------------|------|
| Signature | Printed name | Date |
|-----------|--------------|------|

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Department of Energy

330

Agency and Division

Administrative Rules Chapter Number

Amending Biomass Tax Credit rules to increase application fee and clarify eligibility and application process.

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

In the Matter of: Biomass Producer or Collector Tax Credit program rules.

Statutory Authority: ORS 469.040, 469B.403, 315.141

Other Authority:

Stats. Implemented: ORS 469B.403, 315.141

Need for the Rule(s): The proposed rules for the Biomass Producer or Collector Tax Credit program provide additional details about the application contents and expectations, and clarify the eligibility of biomass feedstocks and activities. The proposed rules add clarity and transparency for applicants and assist the Oregon Department of Energy in administering the certification process. ORS 315.141(5)(b) directs the department to collect a fee not to exceed the cost of administering the program. Currently, the department is not collecting fees sufficient to recover the actual cost of the program. The proposed fee increase was explained and included in the budget approved by the legislature as part of the 2013-2015 budget process.

Documents Relied Upon, and where they are available:

ORS chapter 469B, <http://www.leg.state.or.us/ors/469b.html>

ORS chapter 315, <http://www.leg.state.or.us/ors/315.html>

ODOE Key Budget Decisions: http://www.oregon.gov/energy/CONS/Pages/Rulemaking-Energy_Incentive_Program.aspx

Fiscal and Economic Impact: The rules provide clarity and transparency to applicants and assist the department in administering the certification process by including in rule current application processing requirements and clarifying eligibility of biomass feedstocks and activities. The rules also increase the application fee; the department explained and included the fee increase during the 2013-2015 budget process budget approved by the legislature.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): The rules changes, including the increased application fees, are applicable to applicants of the program who voluntarily apply for the tax credit. This tax credit program requires applicants to be subject to taxation under ORS 316, 317 or 318. State agencies, units of local government and nonprofit organizations are not eligible for the program. The fee changes are an additional \$100 plus 1.9 percent of the tax credit amount (0.60% of tax credit amount to \$100 plus 2.5% of tax credit amount). The other rule changes have a minimal impact on applicants by including in rule current application processing requirements already in place and clarifying eligibility of biomass feedstocks and activities.
2. Cost of compliance effect on small business (ORS 183.336):
 - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: The types of businesses and industries subject to the proposed rule amendments are those associated with the Biomass Producer or Collector Tax Credit program. The businesses, including small businesses, subject to the proposed rule amendments voluntarily apply for the tax credit. In 2012, about 40 companies applied for the program. The department does not collect information on the size of businesses applying and the size of the tax credit is not an indicator. Even though the department does not gather information on the number of small businesses applying for the credit, applying the state-wide percentage of 96 percent to the 40 companies, the estimate of small businesses subject to the rule is 39.
 - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: The proposed rule amendments impose no additional mandatory reporting, recordkeeping or other administrative requirements on small businesses that are not already required for program participation. The rules clarify what is required.
 - c. Equipment, supplies, labor and increased administration required for compliance: The proposed rules impose no additional requirements regarding equipment, supplies, labor or administration.

How were small businesses involved in the development of this rule? Interested parties participated in the public meetings held in Roseburg and Salem and the public was invited and participated in the meetings.

Administrative Rule Advisory Committee consulted?: Yes, the department hosted three sector specific public meetings in August 2013 and a rulemaking advisory committee meeting on September 10, 2013.

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

HOUSING COST IMPACT STATEMENT

FOR ESTIMATING THE EFFECT OF A PROPOSED RULE OR ORDINANCE ON THE COST OF DEVELOPING
A *TYPICAL 1,200 SQ FT DETACHED SINGLE FAMILY DWELLING ON A 6,000 SQ FT PARCEL OF LAND.
(ORS 183.534)
FOR ADMINISTRATIVE RULES

AGENCY NAME: Oregon Department of Energy

PERMANENT:

HEARING DATE: 10/24/13

ADDRESS: 625 Marion Street, NE

CITY/STATE: Salem, Oregon

TEMPORARY:

EFFECTIVE DATE: _____

PHONE: (503) 378-4040

BELOW PLEASE PROVIDE A DESCRIPTION OF THE ESTIMATED SAVINGS OR ADDITIONAL COSTS THAT WILL RESULT FROM THIS PROPOSED CHANGE.

PROVIDE A BRIEF EXPLANATION OF HOW THE COST OR SAVINGS ESTIMATE WAS DETERMINED.
IDENTIFY HOW CHANGE IMPACTS COSTS IN CATEGORIES SPECIFIED

Description of proposed change: (Please attach any draft or permanent rule or ordinance) Biomass Tax Credit rules to increase application fee and clarify eligibility and application process.

Description of the need for, and objectives of the rule: The proposed rules for the Biomass Producer or Collector Tax Credit program provide additional details about the application contents and expectations, and clarify the eligibility of biomass feedstocks and activities. The proposed rules add clarity and transparency for applicants and assist the Oregon Department of Energy in administering the certification process. ORS 315.141(5)(b) directs the department to collect a fee not to exceed the cost of administering the program. Currently, the department is not collecting fees sufficient to recover the actual cost of the program. The proposed fee increase was explained and included in the budget approved by the legislature as part of the 2013-2015 budget process.

List of rules adopted or amended: OAR 330-170-0010, 330-170-0020, 330-170-0030, 330-170-0040, 330-170-0050, 330-170-0060

Materials and labor costs increase or savings: The department believes that there will be no impact based on these rules.

Estimated administrative construction or other costs increase or savings: The department believes that there will be no impact based on these rules.

Land costs increase or savings: The department believes that there will be no impact based on these rules.

Other costs increase or savings: The department believes that there will be no impact based on these rules.

*Typical-Single story 3 bedrooms, 1 ½ bathrooms, attached garage (calculated separately) on land with good soil conditions with no unusual geological hazards.

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