

**DEPARTMENT OF ENERGY
DIVISION 170**

**BIOMASS PRODUCER OR 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, 2012.

330-170-0020 Definitions

For the purposes of OAR chapter 330, division 170 the definitions in ORS 315.141 apply and in addition the following definitions shall apply:

- (1) "Applicant" or "taxpayer" means an individual or a legal entity (including but not limited to any domestic or foreign corporation, trust, partnership, cooperative, or limited liability company), but does not include a nonprofit organization or a government entity.
- (2) "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.
- (3) "Charcoal" as used in these rules is biomass produced into a densified, carbon rich product used in filters, as an absorbent, or a fuel marketed for cooking purposes.
- (4) "Department" means the Oregon Department of Energy.
- (5) "Director" means the Director of the Oregon Department of Energy.
- (6) "Firewood" as used in this rule means whole or split pieces of wood that are in a form commonly used for burning in campfires, stoves, or fireplaces
- (7) "Yard Debris" is defined in ORS 459.005(30).

330-170-0030 Applicant Eligibility

- (1) To be eligible for certification, the applicant must:
 - (a) Be an Agricultural Producer or Biomass Collector, including a Biofuel Producer that is also 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, directly or indirectly, and including through agents or employees, the biomass in Oregon; and
 - (d) Deliver or facilitate the delivery of the biomass to be:
 - (A) Used as Biofuel in Oregon; or
 - (B) Used to produce Biofuel in Oregon.

330-170-0040 Biomass Eligibility

- (1) For the purpose of these rules biomass does not include:
 - (a) Woody material used to produce firewood, or charcoal briquettes.
 - (b) Construction and demolition debris or other wood waste that does not have a credit rate listed under ORS 469.790.
 - (c) Sawdust or other residual wood waste from mill operations.
 - (d) Algae.
- (2) The biomass must be produced into biofuel or used as biofuel in Oregon.
- (3) The biomass must meet the definition in these rules and be listed in ORS 469.790.
- (4) Biomass that is converted to heat and/or electric energy through combustion must meet the following criteria:
 - (a) Prior to July 1, 2010 no additional criteria must be met;
 - (b) On or after July 1, 2010 and prior to November 2, 2010 biomass must be converted at a facility with a minimum overall thermal conversion efficiency of 40%; or
 - (c) On or after November 2, 2010 biomass must be converted at a facility that meets the current criteria for qualifying cogeneration facilities found in 18 CFR 292.205.
- (5) Biomass, not excluded under (1) above, that is converted for thermal use at residential, commercial, institutional, or industrial facilities is eligible.
- (6) Waste grease that is not dewatered prior to delivery to a biofuel producer will be assumed to have an eligible biomass content of 20% of the delivered weight of the oil and water mixture, unless the applicant can demonstrate additional measurement.
- (7) Only one taxpayer may receive a certified credit for each unit of biomass.

330-170-0050 Application Process

- 1) A complete application must be received by the department no later than 45 days following the end of the tax year for which the tax credit certification is being requested. Applicants may submit the application via e-mail or mail to the address listed on the department's website.
 - (a) The application must include:
 - (A) A complete application, on a form provided by the department;
 - (B) Proof that the Biomass collector or agricultural producer held title to the biomass at the time the biomass was delivered;
 - (C) Documentation indicating the physical address, township, range, section, and quarter/quarter section, or other specific geographic indicator of the origination of the biomass;
 - (D) A summary or settlement sheet indicating each shipment that was received by the Biofuel Producer. Each summary or settlement sheet must include the following:
 - (i) The date of delivery for each shipment of biomass;
 - (ii) The type of biomass included in each shipment and applicable tax credit rate for each shipment;
 - (iii) The amount of biomass delivered in each shipment;
 - (iv) The weight ticket number or a similar unique identifier;
 - (v) The name and address of the Biofuel Producer to which the biomass was delivered.
 - (E) Receipts and certification from the Biofuel Producer(s) indicating the amount of

- biomass delivered to it by the Agricultural Producer or Biomass Collector and a statement from the Biofuel Producer indicating the amount of biomass that was used or is to be used as Biofuel or to produce Biofuel in Oregon. The certification must be specific to the biomass collector or agricultural producer and the biomass that is included in the application;
- (F) Documentation, from the Biofuel Producer indicating adherence to any additional criteria provided in 330-170-0040 that apply to the biomass; and
 - (G) All calculations used to convert the measure of the biomass to another measure and source references for the calculations and all variables.
 - (H) An application fee equal to \$0.007 multiplied by the total amount of tax credits requested or \$50, whichever is greater.
- (b) If eligible biomass is stored or aggregated with other biomass or materials after the initial production or collection activities and prior to delivery to a biofuel producer, the biomass producer or collector must provide detailed records certifying the amount and source of each type of biomass.
- (c) If it is not practicable to provide weight tickets or receipts from the Biofuel Producer for animal manure, Biomass Collectors that collect animal manure must include the following information with the application:
- (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 in Oregon.
- (d) If it is not practicable to provide weight tickets or receipts from the Biofuel Producer, 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 other Biofuel, must include the following records with their application:
- (A) Documentation demonstrating the quantity of biomass produced, which must include one or more of the following:
 - (i) Acreage report(s) or yield data submitted to the United States Department of Agriculture;
 - (ii) Crop insurance records of acreage planted and quantity harvested of biofuel crop; or
 - (iii) Additional documentation showing the actual yields of the biomass crop.
 - (B) Documentation indicating the biomass was used or is to be used to produce virgin oil or alcohol, as Biofuel, or to produce any other type of Biofuel may be

- submitted in place of receipts from the Biofuel Producer.
- (e) Applicants that physically transfer biomass to be processed into biofuel or used as biofuel in a manner that does not allow for weighing of the biomass, and is not detailed above, must supply documentation indicating the amount of biomass as measured by metering equipment or a similar device.
 - (A) Applicants must provide documentation, including manufacturer's specifications which indicate the measurements are accurate and reliable.
 - (B) Metering equipment or similar device must be calibrated according to the manufacturer's specifications and the calibration records must be maintained for a period of no less than five years.
 - (2) The Department may require the applicant to provide further information as needed to complete a review of the application and verify compliance with statute and these rules.
 - (3) The Department may refund up to 75 percent of the application fee if an applicant withdraws their application prior to review by Department. Only refunds that are \$50 or greater will be issued.
 - (4) The Department may require the applicant to pay reasonable costs, not to exceed actual 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.
 - (5) The applicant must maintain records of the application and any supporting documentation for a period of not less than five years from the date of application.

330-170-0060 Certification and Denial

- (1) If the Department approves an 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.
- (2) The department may adjust the amount of tax credit certified from the applied amount if miscalculations, inconsistencies or errors are found during the technical review.
- (3) If multiple types of eligible biomass are included in a load that is appropriately documented under these rules, the department will apply the lowest credit rate associated with the biomass in determining the amount of certified credit for the entire load of eligible biomass.
- (4) If the Department does not approve an application, the Director will provide written notice of denial, including a statement of the findings and reasons for the denial, by mail. The Department may deny the application if:
 - (a) The application does not comply with applicable statutory provisions and rules;
 - (b) The applicant does not provide information requested by the Department within a reasonable time;
 - (c) The application is for biomass that is not eligible for the tax credit, or the Department cannot determine the amount of eligible biomass that is co-mingled or combined with biomass that is not eligible.
- (3) The applicant may request reconsideration in writing no later than 60 days after the Director issues a decision denying an application.

330-170-0070 Minimum Discount Value

- (1) The minimum discounted value of a tax credit issued under ORS 315.141 is 90% of the amount of the tax credit.