

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

Establishes process to issue renewable energy certificates for thermal energy from biomass-based electricity generation.

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

In the Matter of: Adoption and Amendment of Chapter 330, Division 160, Rules to Implement Oregon Laws 2016, chapter 28.

Statutory Authority: ORS 469.040, ORS 469A.130 and Oregon Laws 2016, chapter 28

Other Authority:

Stats. Implemented ORS 469A.010 – 469A.025, ORS 469A.130 – 469A.145 and Oregon Laws 2016, chapter 28

Need for the Rule(s): The purpose of these proposed rules is to implement Senate Bill 1547 (2016), Oregon Laws 2016 chapter 28, which requires the Oregon Department of Energy to establish a system for issuing renewable energy certificates for facilities generating electricity using biomass that also generate thermal energy for a secondary purpose. The proposed rules add definitions related to thermal renewable energy certificates; specify eligible facilities and qualifying thermal energy; and provide requirements for metering, monitoring and reporting of qualifying thermal energy.

Documents Relied Upon, and where they are available:

ORS Chapter 469A: https://www.oregonlegislature.gov/bills_laws/ors/ors469A.html

Senate Bill 1547 (2016): <https://olis.leg.state.or.us/liz/2016R1/Downloads/MeasureDocument/SB1547/Enrolled>

RPS Rulemaking records: <http://www.oregon.gov/energy/P-I/Pages/RPS-Rulemaking.aspx>

Fiscal and Economic Impact: The rule changes are expected to have minimal fiscal impact.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): Minimal impact is anticipated for state agencies. It is already the responsibility of the Oregon Department of Energy to certify facilities as Renewable Portfolio Standard (RPS)-eligible, to update those facilities' RPS certification, to update the RPS-related rules as required by statute, and to engage with stakeholders periodically; therefore, any additional administration required by the Department will be minimal. Units of local government will be impacted by the rules only to the extent that they own facilities that are, or could be, certified RPS-eligible and could qualify to generate thermal renewable energy certificates (T-RECs). Finally, many facilities eligible for T-RECs are already participating in the RPS and are thus already familiar with the process of application and certification, as well as the associated costs. For some facilities, there may be costs associated with upgrading technical equipment to meet the monitoring standards of the rules.

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: There are currently 16 facilities located in Oregon that are already certified RPS-eligible and that would likely qualify to generate T-RECs. Of these existing facilities, approximately one-fourth are small businesses meeting the criteria of ORS 183.310(10). While several of the remaining facilities have under 50 employees, they are either subsidiaries of a larger corporation or are owned by a municipality, a single consumer-owned utility, or a combination of two or more consumer-owned utilities. These facilities include wastewater treatment plants and power plants generating electricity from landfill gas or residues from the agricultural and forest products industries.

It is unknown how many new facilities will register to generate T-RECs, and of those how many will meet the criteria to be considered a small business under ORS 183.310(10). However, regardless of ownership, many of the facilities that could qualify to generate T-RECs are likely to employ fewer than 50 people and to operate in low-margin or struggling natural resource-based business sectors such as agriculture and forest products.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: The only small businesses subject to the proposed rules are those that voluntarily comply with the various requirements of the rules in order to be eligible to generate T-RECs and sell them to utilities with RPS compliance obligations.

Facilities already registered in the Western Renewable Energy Generation Information System (WREGIS) will have already incurred those registration fees. These facilities will require the services of an energy industry professional to validate their facility's metering scheme in order to be certified with the Department as eligible to generate T-RECs. Many facilities already

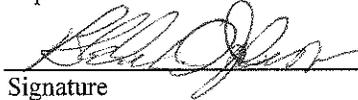
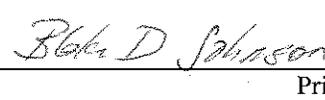
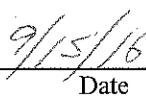
employ a qualified energy industry professional, while others will need to hire an outside professional. Facilities will also incur costs associated with monitoring, verification, and reporting of their thermal energy information to WREGIS. Recordkeeping of facility data is already common practice and required for a number of other programs, so this should not be a significant cost. Facilities not yet registered in WREGIS will incur one-time registration costs, which will vary based on the generating capacity of the facility. The total costs incurred by each facility will depend on a number of factors, including facility size, complexity of metering scheme, and whether WREGIS registration costs and fees for a qualified energy industry professional must be paid. Each facility will likely determine whether the incentive from the sale of T-RECs earned outweighs the potential administrative costs.

c. Equipment, supplies, labor and increased administration required for compliance: As noted above, the majority of known small facilities that could qualify for generating T-RECs do not meet the statutory criteria to be considered a small business. However, the Department and stakeholders have designed a two-tiered system of measurement requirements for T-RECs to make it easier for small facilities to participate, which may create more opportunities for small businesses to enter the biomass-based energy industry. The two-tiered system in the proposed rules includes less-costly requirements for small facilities which allow for annually calculated constants in place of certain metered factors required for large facilities. Where metering is required, all facilities must have utility-grade meters that are calibrated according to industry standards. However, the configuration of metering equipment will vary between facilities according to the facilities' layout and the secondary use(s) for the thermal energy. In some cases, facilities may already have installed part or all of the required metering equipment. The cost of installing metering will vary significantly by facility, and all facilities considering whether to pursue eligibility to generate T-RECs will need to weigh these costs against the possible financial gains from selling T-RECs.

Facilities wishing to qualify to generate T-RECs must retain metering records, and will require the necessary equipment, supplies and labor to organize and retain the records. However, such administrative recordkeeping is common industry practice and should not require facilities to incur substantial additional costs.

How were small businesses involved in the development of this rule? Engineering consultants who work with small businesses to design and install biomass-powered generation systems were active participants in the stakeholder workshops. Any and all stakeholders interested in this rule were invited to participate in the three workshops held between June and September. Notices were provided to all individuals and entities who signed up to receive updates related to the RPS or to biomass. Additionally, notice was provided via the department's website and was reposted by local energy-related distribution lists and newsletters.

Administrative Rule Advisory Committee consulted? No. The department convened a series of stakeholder workshops, where all interested stakeholders were invited to attend. The stakeholders reviewed draft rules and provided advice on fiscal impacts and impacts on small businesses.

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Signature Printed name Date