

OFFICE OF THE SECRETARY OF STATE
TOBIAS READ
SECRETARY OF STATE

MICHAEL KAPLAN
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 741
DEPARTMENT OF TRANSPORTATION
RAIL DIVISION

FILED: 05/13/2026 1:51 PM

ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Standards to Determine Project Eligibility and Application Procedures for Shortline Railroad Rehabilitation Tax Credits

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 06/21/2026 5:00 PM

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

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

CONTACT:

Cary Goodman
971-332-0928
cary.goodman@odot.oregon.gov
355 Capitol St NE MS 43
Salem, OR 97301

Filed By:

Winnie Dawn
Rules Coordinator

NEED FOR THE RULE(S):

ODOT is amending these rules to provide clarification and ensure a more orderly preliminary and final certification process in odd-numbered years (when one biennium ends June 30 and a new one begins July 1).

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

The amendments to these rules will not affect racial equity in this state.

FISCAL AND ECONOMIC IMPACT:

We expect that amending these Rules will have little to no fiscal or economic impact on ODOT. The law allows ODOT to collect fees from applicants to recoup our costs, so the effect should be to break even.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) None.

(2) None.

(2)(a) The only businesses impacted by the rules are the 24 Oregon short line railroads. ODOT sought and received input from them as we developed the original rules.

(2)(b) No additional reporting, recordkeeping or administrative activities or costs are anticipated because of these Rule amendments.

(2)(c) No additional professional services, equipment supplies, or applicant labor and administration costs are anticipated as a result of these Rule amendments. The only anticipated cost will be additional ODOT staff labor, and the law allows ODOT to collect fees from applicants to recoup our costs.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not directly involved in the development of these rules. However, representatives of small businesses were sent a copy of the draft rules, and no responses were received.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

These Rule amendments are to provide clarification and ensure a more orderly final certification process; no input from an advisory committee was needed.

RULES PROPOSED:

741-030-0040, 741-030-0050, 741-030-0060

AMEND: 741-030-0040

RULE SUMMARY: ODOT is amending these rules to provide clarification and ensure a more orderly preliminary and final certification process in odd-numbered years (when one biennium ends June 30 and a new one begins July 1).

CHANGES TO RULE:

741-030-0040

Preliminary Certification Application

(1) Applicants requesting preliminary certification for a short line rehabilitation tax credit must submit their request during the application submission periods specified in OAR 741-030-0025.¶¶

(2) Applicants requesting preliminary certification for a short line rehabilitation tax credit must apply on the Department-approved form (Short Line Railroad Rehabilitation Tax Credit Application for Preliminary Certification).¶¶

(3) The application must also include a certification, executed by an authorized representative of the short line railroad, that certifies that the applicant's project meets the requirements for a short line railroad project set forth in ORS 315.591 - 315.603 and this division of administrative rules.-The representative's certification must be a sworn statement attesting to the truth of the certification and attesting to the following:¶¶

(a) That the railroad is a short line railroad; ¶¶

(b) That the leased or owned infrastructure on which the rehabilitation tax credit would be based is located in Oregon;¶¶

- (c) The railroad mileposts that are adjacent to the leased or owned infrastructure;¶
 - (d) That rehabilitation costs are not funded by or used to qualify for any state or federal grants, or used to claim a federal tax credit (Regardless of whether the applicant applies for the federal tax credit under section 45G of the Internal Revenue Code, the amount applicant is eligible to qualify for under the federal tax credit shall be deducted from the applicant's rehabilitation project costs before calculating the applicant's Oregon tax credit.); and¶
 - (e) That the applicant is current on all state and local taxes, fees and assessments.¶
- (4) For odd-numbered years, Applicant must specify which proposed expenses will be paid or incurred between January 1 and June 30, and which proposed expenses will be paid or incurred between July 1 and December 31.
- Statutory/Other Authority: ORS 184.619, ~~823.011~~, 315.593, 315.597, 823.011
- Statutes/Other Implemented: ORS 315.591 - 315.603

AMEND: 741-030-0050

RULE SUMMARY: ODOT is amending these rules to provide clarification and ensure a more orderly preliminary and final certification process in odd-numbered years (when one biennium ends June 30 and a new one begins July 1).

CHANGES TO RULE:

741-030-0050

Preliminary Certification Review and Calculation of Potential Tax Credit

(1) Project applications will be reviewed for compliance with the requirements of ORS 315.591 - 315.603 and the administrative rules of Chapter 741, Division 30. Upon receipt of an application for preliminary certification, the Department will determine whether the proposed project is eligible for a Short Line Railroad Rehabilitation Tax credit.¶

(2) No later than 60 days after receipt of an application for preliminary certification, the Department will:¶

(a) Issue a preliminary certification with the potential amount of the tax credit; or¶

(b) Reject the application if the project is not eligible; or¶

(c) Require the applicant to submit additional information as may be necessary. Applicants will have 15 business days from the Department's notice requiring additional information to respond.¶

(3) The department will use the procedure provided in ORS 315.595 to calculate the potential amount of the tax credit when issuing a preliminary certification. The department will use the tax credit allocation method provided in ORS 315.595 if the total amount of potential tax credits exceeds the total amount of potential tax credits allowed for any biennium.¶

(4) Because one biennium ends on June 30 of an odd-numbered year, and the new biennium begins on July 1, the preliminary certification may distinguish the amount of eligible tax credit for the first half of the odd-numbered year and the amount of eligible tax credit for the second half of that year.

Statutory/Other Authority: ORS 184.619, ~~823.011~~, 315.593, 315.597, 823.011

Statutes/Other Implemented: ORS 315.591 - 315.603

AMEND: 741-030-0060

RULE SUMMARY: ODOT is amending these rules to provide clarification and ensure a more orderly preliminary and final certification process in odd-numbered years (when one biennium ends June 30 and a new one begins July 1).

CHANGES TO RULE:

741-030-0060

Final Certification Application and Review

- (1) The following requirements must be met in order for the applicant to receive final certification: ¶
- (a) Applicants with completed projects must have a valid preliminary certification for a short line railroad rehabilitation tax credit. The short line railroad rehabilitation project must be completed as described in the preliminary certification, and in accordance with ORS 315.591 - 315.603 and Chapter 741, Division 30 of the administrative rules. Any changes to a preliminary certification must be made through the amendment process outlined in these rules and must be completed prior to the project completion date. ¶
 - (b) Applicants must apply on the Department-approved form (Short Line Railroad Rehabilitation Tax Credit Application for Final Certification). ¶
 - (c) Applicants may submit their application annually for final certification, but the application must be received by the Department no later than May 1 following the end of the year in which the work is completed. ¶
 - (d) The application must include a certification, executed by an authorized representative of the short line railroad, that certifies that the applicant's project meets the requirements for a short line railroad project set forth in ORS 315.591 - 315.603 and this division of administrative rules. The representative's certification must be a sworn statement attesting to the truth of the certification and attesting to the following: ¶
 - (A) That the railroad is a short line railroad; ¶
 - (B) That the leased or owned infrastructure on which the rehabilitation tax credit would be based is located in Oregon; ¶
 - (C) The railroad mileposts that are adjacent to the leased or owned infrastructure; ¶
 - (D) That the rehabilitation project costs are not funded by or used to qualify for any state or federal grants, or used to claim a federal tax credit (Regardless of whether the applicant applies for the federal tax credit under section 45G of the Internal Revenue Code, the amount applicant is eligible to qualify for under the federal tax credit shall be deducted from the applicant's rehabilitation project costs before calculating the applicant's Oregon tax credit.); ¶
 - (E) The actual eligible costs of the completed maintenance, reconstruction or replacement of infrastructure in Oregon; and ¶
 - (F) That the applicant is current on all state and local taxes, fees and assessments. ¶
 - (e) Applicants must provide documentation of rehabilitation project actual costs indicating the date they were paid or incurred, which may include canceled checks, invoices or receipts, binding contracts or agreements, or other documentation that evidence that such costs were properly paid or incurred for the project described in the preliminary certification and represent eligible costs under these rules. ¶
- (2) The Department may inspect the infrastructure, at the Department's discretion, to ensure the project is eligible for the tax credit. ¶
- (3) After an application for final certification is received, the Department will determine whether the application is complete. An application is incomplete if it does not include information needed to demonstrate substantive compliance with any applicable standards and preliminary certification conditions adopted by the Department. If it is incomplete, the Department will provide the applicant a written explanation describing deficiencies. Upon receipt of a request for additional information from the Department, applicants will have 15 business days to respond. If the application is complete, the Department will process the application. Within 60 days after a completed application for final certification is received, the Department will either approve or deny the application. ¶
- (4) If the Department approves the application, the Department will issue a final certification, which states the amount of certified costs and the amount of the tax credit. For odd-numbered years, the final certification may distinguish the amount of certified tax credit for the first half of the odd-numbered year and the amount of certified tax credit for the second half of that year. ¶
- (5) An applicant that has been awarded a final certification may transfer the credit as provided in ORS 315.591 - 315.603.
- Statutory/Other Authority: ORS 184.619, ~~823.011~~, 315.593, 315.597, 823.011
Statutes/Other Implemented: ORS 315.591 - 315.603