

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, HB 2078 (2009) s. 49.

Stats. Implemented: ORS 315.141, ORS 469.790

Hist.:

330-170-0010 DEFINITIONS

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

(1) "Agricultural Producer" means a person who produces biomass, and retains title to the biomass, including through agents and employees, and delivers the biomass to a biofuel producer, and the biomass is to be used as biofuel or as feedstock to produce biofuel in Oregon.

(2) "Biofuel" has the meaning provided in ORS 315.141.

(3) "Biomass" has the meaning provided in ORS 315.141 except that for the purpose of these rules:

(a) Biomass does not include:

(i) Split cord wood or firewood; and

(ii) Woody material used to produce charcoal briquettes.

(b) Biomass does include oil seed used to produce oil for biofuel

(4) "Biomass Collector" means a person:

(a) Who owns or has contractual rights to, and physically collects, biomass; and

(b) Who delivers the biomass to a biofuel producer to be used as biofuel or to produce biofuel in Oregon.

(5) "Biofuel Producer" has the meaning as provided in ORS 315.141.

(6) "Department" means the Oregon Department of Energy.

(7) "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, HB 2078 (2009) s. 49.

Stats. Implemented: ORS 315.141, ORS 469.790

Hist.:

330-170-0020 APPLICATION PROCESS

(1) Persons claiming a tax credit under ORS 315.141 must apply for certification using an application form provided by the Department.

(2) Applications by an agricultural producer or biomass collector shall include:

- (a) The application form filled out and signed by the applicant;
- (b) Documentation that indicates the location where the biomass originated;
- (c) Copies of all purchase orders-itemized invoices or other similar documents related to collection, production and sale of the biomass;
- (d) Signed affirmation from the applicant, indicating ownership or contractual rights to produce or collect the biomass;

(e) Appropriate documentation demonstrating the amount and weight of the biomass and how and when the biomass was transported from the point of origin to the bio fuel producer, including, but not limited to:

(i) A copy of the original scale ticket, signed by the biofuel producer owner or agent, indicating the type and total amount of the biomass delivered to the biofuel producer; and

(ii) A copy of all bills of lading, for the delivery of biomass to the biofuel producer, including the type and total amount of the biomass delivered to the biofuel producer;

(f) The receipt provided by the biofuel producer and signed by the biofuel producer or agent indicating the amount of biomass acquired from the agricultural producer or biomass collector, and the amount of the biomass that was or is to be used as biofuel or to produce biofuel; or documentation indicating the amount of biomass delivered using a formula described in this rule.

(g) Measurements of biomass must correspond to the credit rate contained in ORS 469.790. Wet tons or green tons are to be considered the delivered weight.

(h) Any calculations, with source references used to convert the measure of the biomass to another measure; and

(i) An application fee equal to xxx multiplied by the total amount of tax credits requested.

(3) An application by an agricultural producer or biomass collector which is also the biofuel producer must include:

- (a) The application form filled out and signed by the applicant;
- (b) A signed statement from the applicant, indicating ownership or contractual rights to produce or collect biomass;
- (c) Proof that the agricultural producer or biomass collector physically produced or collected the biomass;

(d) Documentation indicating the biomass was used or is to be used as biofuel or to produce biofuel, and the type and total amount of the biomass delivered to the biofuel producer including but limited to:

(i) A copy of the original scale ticket, signed by the third party, and copies of all bills of lading, including the type and total amount of the biomass; or

(ii) Documentation indicating the amount of biomass delivered using a formula described in this rule.

(4) A formula may be used to calculate the amount of biomass material for which a credit is claimed.

(a) Documentation must be provided to support each variable used in a formula.
(b) For animal manure and bedding that is not transported off-farm prior to introduction into an anaerobic digester the following formula may be used to determine the amount of animal manure eligible for a tax credit:

(i) 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) 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].

(iii) Amount of bedding fed into the digester: [Average weight (pounds) of bedding used per day, per animal] multiplied by [the number of 1,000 pound animal units] multiplied by [the number of days in the period] divided by [2,000 pounds]

(c) [Insert other formulas if needed]

(5) Each application may only include shipments to an individual biofuel producer.

(6) The Department must receive the application no later than February 1 following the year to which the tax credit is to be applied.

Stat. Auth.: ORS 315.141, ORS 469.790

Stats. Implemented: ORS 315.141, ORS 469.790

Hist.:

330-170-0030 COMPLETENESS OF THE APPLICATION

(1) Upon receipt of the application and supporting documentation, the Department will review the application to determine if it is complete. If complete, the Department may approve and certify an application when the information in the application demonstrates the following:

(a) The Applicant is an agricultural producer or biomass collector.

(b) The Applicant collects or produces biomass in Oregon.

(c) The Applicant delivers or causes to be delivered the biomass to a biofuel producer in Oregon.

(d) The biomass is used, or is to be used, as biofuel or to produce biofuel in Oregon.

(e) The biomass meets the definition in these rules and a credit rate is provided in ORS 469.790.

(2) The Department may require the Applicant to provide further information to determine whether the criteria in this rule are met and whether the Department can certify the Applicant for a biomass tax credit. The Department may require the Applicant to pay xxx per hour for 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.:

330-170-0060 CERTIFICATION

- (1) If the Department approves the Application, the Director will issue a written certificate to the Applicant identifying the Applicant and the biomass, and stating the amount of the tax credit approved.
- (2) If the Department does not approve the Application, the Director will provide to the Applicant in writing reasons for the denial.
- (3) If the Department denies the Applicant's Application for certification, the Applicant may resubmit the Application prior to the deadline established by these rules. The Applicant may amend or withdraw the Application for certification at any time prior to the deadline.
- (4) A tax credit shall be provided only once for each unit of biomass used as biofuel or to produce biofuel.
- (5) A tax credit shall only be provided to biomass meeting the definition in these rules and for which a credit rate is provided in ORS 469.790.

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 agricultural producers or biomass collectors that have been certified for biomass tax credits under ORS 315.141, or associated biofuel producers. The Department shall schedule such inspection during normal working hours following reasonable notice to the agricultural producer or biomass collector.

Stat. Auth.: ORS 315.141, ORS 469.790

Stats. Implemented: ORS 315.141, ORS 469.790

Hist.:

330-170-0080 TRANSFERABILITY

- (1) Tax credits obtained 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.: