

# ADMINISTRATIVE RULES

(a) The proximity of the system to buildings, power lines, antennae or other similar hazards;

(b) The effect of high winds on the system and on any building connected to the system by guy wires;

(c) Whether the system blocks fire lanes, obstructs dwelling access, or otherwise increases fire danger;

(d) Whether the operation of the system significantly increases background noise; and

(e) Whether connecting the system to other buildings by guy wires creates vibration and tension in other buildings.

(4) Materials used will assure that the wind AED has adequate:

(a) Strength;

(b) Resistance to wind, lightning, ice, moisture, corrosion and fire;

(c) Durability; and

(d) Low maintenance cost.

(5) The wind AED must withstand all natural forces it may be expected to experience.

(6) No part of a wind AED project must put toxic substances into the environment in amounts that will cause disease or harmful physical effects to humans, animals or plants.

(7) Wind AED parts must be serviceable without the need to trespass.

(8) Maximum Design Wind Speed: All parts of a Wind AED project must withstand the highest wind speed expected at its location. All parts must withstand this wind without damage. To meet this requirement, wind AEDs may be shut down during highest expected winds.

(9) Manual Shutdown: All wind AEDs must have a manual way to stop the rotor from turning. This method must work safely during high winds and routine service.

(10) Overspeed Control: Rotor overspeeds shall be prevented by the wind AED's design.

(11) Tower safety: All parts of a wind AED project shall meet accepted engineering standards. Tower design must include consideration of:

(a) Gravity load; and

(b) Peak thrust on the rotor, nacelle, tail and tower over the full wind speed operating range.

(12) Electric: All wind AED electrical parts must adhere to all standards and codes in force at the time they are installed.

(13) Lightning: Wind AEDs must withstand lightning strikes.

(14) The Director may waive part or all of section (1) of this rule if production of the wind AED model stopped prior to 1990, or it is an owner-built system or a mechanical wind AED.

(15) The first-year energy yield of wind AEDs must be at least 350 kWh.

(a) The first-year energy yield must be estimated using the measured or estimated wind resource data and the wind AED's power curve or energy production data.

(A) The provided wind data must cover at least a one-year period.

(B) Wind data may be used from:

(i) Three nearby wind monitoring stations;

(ii) The wind AED site itself;

(iii) In the event of less than one year's measurements at the wind AED site, the application shall include the months of on-site measurements and one year's worth of data from two nearby locations; or

(iv) A nationally recognized firm that provides estimated wind resource data based on advanced national wind mapping technology.

(b) The department will use data supplied by the applicant to verify the first-year energy yield.

Stat. Auth.: ORS 469.160 - 469.180

Stats. Implemented:

Hist.: DOE 1-1999, f. 12-21-99, cert. ef. 1-1-00; DOE 2-2001, f. 10-5-01, cert. ef. 10-8-01; DOE 1-2004, f. & cert. ef. 1-21-04; DOE 2-2005, f. 12-30-05, cert. ef. 1-1-06; DOE 4-2007, f. 11-30-07, cert. ef. 12-1-07; DOE 7-2008, f. 10-31-08, cert. ef. 11-1-08; DOE 16-2010, f. & cert. ef. 12-22-10

## 330-070-0091

### Eligible Costs for a Wind AED

(1) The costs listed in subsections (2)(a) through (m) of this rule do not include all eligible costs. Other costs will qualify if directly associated with the acquisition and installation of the AED. Only total working systems will qualify for a tax credit. All systems must comply with OAR 330-70-0021 and 330-070-0040.

(2) Eligible costs include:

(a) The cost of wind turbine generators;

(b) The cost of DC/AC converters, inverters and synchronous inverters;

(c) The cost of wind and system instruments and controls when part of a total wind AED;

(d) The cost of energy storage (batteries or other methods);

(e) The cost of tower, foundation and guys;

(f) Fees paid for design and building;

(g) Fee to install;

(h) The cost of electric meters, switches and electrical safety equipment;

(i) The cost of electric transformers and lines and supports;

(j) The cost of safety equipment;

(k) Up to \$500 of wind permitting cost;

(l) The cost of windmills; and

(m) The cost of pumps, linkage, pump heads, and vacuum chambers.

Stat. Auth.: ORS 469.160 - 469.180

Stats. Implemented:

Hist.: DOE 1-1999, f. 12-21-99, cert. ef. 1-1-00; DOE 1-2004, f. & cert. ef. 1-21-04; DOE 4-2007, f. 11-30-07, cert. ef. 12-1-07; DOE 16-2010, f. & cert. ef. 12-22-10

## 330-070-0097

### Electricity Producing AEDs

Generating AEDs linked with an electric utility must be installed in accordance with local utility interconnect guidelines and be UL listed and installed per the state electrical code.

Stat. Auth.: ORS 469

Stats. Implemented: ORS 469.170

Hist.: DOE 1-1982, f. 1-12-82, ef. 2-1-82; DOE 1-1986, f. & ef. 2-7-86; DOE 4-1987, f. 12-18-87, ef. 1-1-88; DOE 1-1997, f. 12-15-97, cert. ef. 1-1-98; DOE 1-1999, f. 12-21-99, cert. ef. 1-1-00; DOE 1-2004, f. & cert. ef. 1-21-04; DOE 2-2005, f. 12-30-05, cert. ef. 1-1-06; DOE 4-2007, f. 11-30-07, cert. ef. 12-1-07; DOE 16-2010, f. & cert. ef. 12-22-10

\*\*\*\*\*

## Department of Environmental Quality Chapter 340

**Rule Caption:** Housekeeping and streamlining for DEQ-administered tax credits.

**Adm. Order No.:** DEQ 15-2010

**Filed with Sec. of State:** 12-20-2010

**Certified to be Effective:** 12-20-10

**Notice Publication Date:** 10-1-2010

**Rules Adopted:** 340-016-0088

**Rules Amended:** 340-016-0080, 340-016-0210

**Rules Repealed:** 340-016-0100, 340-016-0110, 340-016-0120, 340-016-0130, 340-016-0140, 340-016-0150

**Subject:** The Environmental Quality Commission:

- Adopted and amended Pollution Control Tax Credits rules to transfer certificate administration activities to DEQ;

- Repealed the Pollution Prevention Tax Credit pilot program rules. The statute authorized EQC to issue program certificates through December 31, 1999.

- Amended the Truck Engine Tax Credit to align the last date of certificate issuance to December 31, 2013 with 2009 amendments to chapter 618, Oregon Laws 2003 in a legislative note following ORS 315.356.

**Rules Coordinator:** Maggie Vandehey—(503) 229-6878

## 340-016-0080

### Certification

(1) The Preliminary Certificate. The Commission shall pre-certify the eligibility of a facility if the Commission determines the facility is eligible for a pollution control tax credit certificate as set forth in OAR 340-016-0060. The certificate shall be prima facie evidence that the facility is qualified for certification for tax relief under ORS 468.167. Preliminary certification shall not ensure that the facility constructed will receive certification under ORS 468.167 or tax relief under ORS 307.405 or 315.304.

(2) The Final Certificate. The Commission shall certify the actual cost of a pollution control facility as set forth in OAR 340-016-0070 and the portion of the cost properly allocable to pollution control as set forth in ORS 468.190 and OAR 340-016-0075 if the Department determines the facility is eligible for pollution control tax credit certification as set forth in 340-016-0060. The certificate:

(a) Shall bear a separate serial number for each such facility;

(b) May certify two or more facilities which constitute an operational unit under one certificate;

(c) Is effective for purposes of tax relief according to the provisions of ORS 307.405 or ORS 315.304;

(d) Shall be granted:

(A) For 10 consecutive years beginning with tax year of the person taking the tax credit; or

# ADMINISTRATIVE RULES

(B) For 20 consecutive years for corporations organized under ORS Chapters 62 or 65 that utilize ad valorem tax-relief. The portion of the facility allocable to pollution control shall be exempt from ad valorem taxation.

(e) Shall be limited to that portion of the eligible and allocable facility costs, as set forth in OAR 340-016-0070 and OAR 340-016-0075 representing the taxpayer's investment in the pollution control facility.

(f) May certify portions of a facility qualifying under ORS 468.165(1)(c) separately under this section if portions of the facility are owned by more than one person. The actual cost certified for all portions of a facility separately certified under this subsection shall not exceed the total cost of the facility that would have been certified under one certificate. The provisions of ORS 307.405 or ORS 315.304, whichever is applicable, shall apply to any sale, exchange or other disposition of a certified portion of a facility.

(g) May certify a lesser actual cost of the facility or a lesser portion of the actual cost properly allocable to pollution control, material recovery or recycling than was claimed in the application for certification.

(3) Revocation. The Department may order the revocation of the final tax credit certification as set forth in ORS 468.185. The Department shall notify the Department of Revenue and the county assessor of the county in which the facility is located as soon as the order of revocation or reinstatement under this section has become final.

(a) Cause for Revocation. Pursuant to the procedures for a contested case under ORS 183.310 to 183.550, the Department may order revocation of a tax credit for:

(A) Fraud or Misrepresentation, if the certificate was obtained by fraud or misrepresentation. All prior tax relief provided to the certificate holder by virtue of such certificate shall be forfeited. The Department of Revenue or the proper county officers shall proceed to collect taxes not paid by the certificate holder as a result of the tax relief provided to the holder under any provision of ORS 307.405 and 315.304; or

(B) Failure to Operate Facility, if the certificate holder has failed substantially to operate the facility for the purpose of, and to the extent necessary to meet the specifications of the certificate; or in compliance with the applicable Department or Commission statutes, rules, orders or permit conditions. The certificate holder shall be denied any further relief provided under ORS 307.405 or 315.304 in connection with such facility from and after the date that the order of revocation becomes final.

(b) Suspended Revocation. The Department may suspend the revocation of a certificate when operation of a facility ceases if the certificate holder indicates in writing that the facility will be returned to operation within five years time. In the event that the facility is not returned to operation as indicated, the Department shall revoke the certificate.

(c) Impact on Adjacent Facilities. The Department may revoke tax credits held for any facility or piece of equipment which is for the purpose of preventing, controlling, reducing, or eliminating pollution to the same media and which is at a location adjacent to the non-complying facility.

(d) Reinstatement. The Department may reinstate any revoked tax credit certification if the Department finds the non-complying facility has been brought into compliance. The tax credit certification shall be reinstated for the remaining period of the tax credit, less the period beginning on the date the Department revokes the certificate and ending on the date the Department reinstates the certificate.

(4) Sale, Exchange or Disposition of Facility. The certificate holder shall provide the Department with written notice upon any sale, exchange or other disposition of the certified pollution control facility. Upon request, the taxpayer shall provide a copy of the contract or other evidence of disposition of the property to the Department of Environmental Quality. Upon sale or exchange of the facility, the certificate holder may request that the Department transfer a tax credit from one holder to another, the Department shall reissue the certificate to the new holder, and report the transfer of the certificate to the Department of Revenue as set forth in ORS 307.405 and 315.304.

Stat. Auth.: ORS 468.150

Stats. Implemented: ORS 468.150 - 468.190

Hist.: DEQ 5-1998, f. 4-24-98, cert. ef. 5-1-98; DEQ 15-2010, f. & cert. ef. 12-20-10

## 340-016-0088

### Subdelegation of Certificate Administration

(1) The Environmental Quality Commission subdelegates authority to the Director of the Department of Environmental Quality to:

(a) Transfer the tax credit certificate upon sale or exchange of the certified facility under OAR 340-016-0080(4) if:

(A) The new facility owner submits a complete Tax Credit Transfer Request form provided by the Department; and

(B) The Department determines the new facility owner continues to operate the facility according to the conditions of certification under ORS 468.170.

(b) Revoke a certificate under OAR 340-016-0080(3).

(2) The Director may subdelegate the authority provided in section (1) of this rule to the Administrator of the Management Services Division.

Stat. Auth.: ORS 468.020, ORS 468.150

Stats. Implemented: ORS 468.150 - 468.190

Hist.: DEQ 15-2010, f. & cert. ef. 12-20-10

## 340-016-0210

### Purpose

This rule establishes Department of Environmental Quality policies and procedures for issuing tax credits to Oregon taxpayers that purchase qualifying truck engines in accordance with Oregon Law 2003, Chapter 618, Sections 28 through 32. These rules apply only to purchases made on or after September 27, 2007, and certificates issued on or before December 31, 2013.

Stat. Auth.: OL 2003, Sec. 28-32, reprinted in a note following ORS 315.356

Stats. Implemented: OL 2003, Sec. 28-32, reprinted in a note following ORS 315.356

Hist.: DEQ 8-2004, f. & cert. ef. 9-17-04; DEQ 9-2008, f. & cert. ef. 7-11-08; DEQ 15-2010, f. & cert. ef. 12-20-10

\*\*\*\*\*

**Rule Caption:** Title V operating permit fee increases authorized in statute.

**Adm. Order No.:** DEQ 16-2010

**Filed with Sec. of State:** 12-20-2010

**Certified to be Effective:** 12-20-10

**Notice Publication Date:** 10-1-2010

**Rules Amended:** 340-220-0030, 340-220-0040, 340-220-0050

**Subject:** The rules:

- Increase Title V fees for 2010 and 2011 and do not require retroactive fee collection;
- Adopt a fee increase for 2009 identical to the August 2009 Environmental Quality Commission temporary rule amendments that allowed the Department of Environmental Quality to invoice Title V permittees on the normal 2009 billing schedule; and
- The fees in the rules reflect a technical correction required by statute.

Federal and state laws require permit fees fund Oregon's entire Title V program. The statute increases the annual base fee beginning in 2010 and gives the Commission authority to adjust all of the fee categories by the annual change in the consumer price index.

Title V permitting helps ensure that permit holders comply with state and federal emissions standards. Revenue from the fees will fund the program through 2012.

**Rules Coordinator:** Maggie Vandehey—(503) 229-6878

## 340-220-0030

### Annual Base Fee

(1) The Department will assess an annual base fee of \$ 5,421 for each source subject to the Oregon Title V Operating Permit program for the period of November 15, 2009 to November 14, 2010.

(2) The Department will assess an annual base fee of \$ 7,183 for each source subject to the Oregon Title V Operating Permit program for the period of November 15, 2010 to November 14, 2011.

(3) The Department will assess an annual base fee of \$ 7,289 for each source subject to the Oregon Title V Operating Permit program for the period of November 15, 2011 to November 14, 2012, and for each annual period thereafter.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 7-1996, f. & cert. ef. 5-31-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2580; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2001, f. 6-28-01, cert. ef. 7-1-01; DEQ 11-2003, f. & cert. ef. 7-23-03; DEQ 6-2004, f. & cert. ef. 7-29-04; DEQ 6-2005, f. & cert. ef. 7-11-05; DEQ 7-2006, f. & cert. ef. 6-30-06; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08; DEQ 4-2009(Temp), f. & cert. ef. 8-27-09 thru 2-20-10; Administrative correction 3-18-10; DEQ 16-2010, f. & cert. ef. 12-20-10