## Start Rulemaking Proposal (SRP)

**Date:** *May5-6 2010 meeting*

**Contact Person/phone:**

#### Rulemaking Proposal

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| Rule Number and Title | OAR 340-016-0080 CertificationOAR 340-016-0088 Certificate Administration DelegationOAR 340-016-0100 through 340-016-0150 Pollution Prevention Tax CreditOAR 340-017-0010 through 340-17-0055 Reclaimed Plastics Tax Credit |
| Objective of rulemaking | The rulemakings proposed would:* Streamline certificate administration for Pollution Control Facilities Tax Credits, and
* Reduce annual DOJ and SOS per page charges for obsolete rules.
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| Changes Proposed  | **Pollution Control Facilities Tax Credits:** The proposal would add a new rule to division 16 that sub-delegates certificate administration to the department. It would make minor changes to the *Certification* to align with the new rule.**Pollution Prevention and Reclaimed Plastics Tax Credits:** The proposal would repeal rules that expired in 1999 and 2001 respectively. |
| Need for this Rulemaking  | **What is the need for the proposed rules or amendments? Address each of the following that applies:** * **Do the rule changes address a known environmental problem or a problem we speculate will occur? If the latter, how likely or serious is the problem? What are the consequences of not addressing it?** No.
* **Will the changes make it easier for the regulated community to do business? Have we consulted w/affected groups to confirm this?** The proposed change would be transparent to certificate holders.
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|  | * **Will the changes make it easier for DEQ to do business? What resource savings will be achieved?** DEQ would turn around changes to EQC issued certificates within days rather than months. The change would eliminate EQC preparation, review and meeting efforts with minor savings. The EQC expressed interest in removing this task from their agenda.
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|  | * **Will the changes further one or more of our strategic directions?** No

* **Do the rules achieve or maintain consistency with federal requirements or delegation of federal programs? If so, explain why that is necessary or important.** There is no federal component to Oregon’s Pollution Control Facilities Tax Credit program.
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|  | * **Is there another compelling reason?**  Remove one item from the EQC agenda.
* **Can the need be met through policy, guidance, or another alternative to rulemaking? If not, briefly explain.** No, the Assistant Attorney General advises sub-delegation of certificate administration tasks.
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| Relevant History | **Pollution Control Facilities Tax Credits** The EQC certified the last facility in December 2009 after the program’s 2008 sunset. Certificate administration was a minor part of the EQC Staff Report that had the main purpose of approving or denying facilities for tax credit purposes. When a certificate holder notifies DEQ they have sold a certified facility, changed their legal name or ceased operating a certified facility, the EQC is responsible for transferring, reissuing or revoking the certificate. The EQC is responsible for certificate administration through 2018. **Pollution Prevention Tax Credits** The program sunset December 31, 1999 and the last year for carry forwards on the Oregon tax return was December 31, 2002.                                               **Reclaimed Plastics Tax Credits** The program sunset December 31, 2001 and the last year for carry forwards on the Oregon tax return was December 31, 2006.                       |
| Deadlines | There are no external deadlines associated with this rulemaking. |
| Technical or Environmental Issues | There are no technical or environmental issues associated with this rulemaking.  |
| **Cross Media Issues** | There are no cross media issues with this rulemaking. |
| Policy or Political Issues | This rulemaking has no policy or political issues.  |
| **Potential Impacts to MSD**  | This proposed rulemaking requires no additional MSD resources and it does not change fees.  |
| **Potential Impacts to OCE** | **Does this rulemaking develop new or expand existing compliance requirements?** No**Does this rulemaking subject previously unregulated persons to regulations?** No**Does this rulemaking develop a new or expand an existing permit/regulatory program?** No |
| Implementation Issues | **Will we be able to implement the rules? Can we effectively enforce the rules? If not, have we considered another approach to compliance?If new resources will not accompany the rules, what other work will not be done? Are we prepared to drop that work?** This rulemaking has no implementation, enforcement or resource issues.**Have we communicated internally and externally with stakeholders?Is there an internal and external communication strategy to ensure that both DEQ staff and the regulated community are prepared for the effects of the rules? Is this strategy for both rulemaking and rule implementation?** The program has not communicated with certificate holders about this housekeeping proposal. The rulemaking will go through public comment.  |
| 5 year Review | This rulemaking will not require a five-year review under ORS 183.405. |
| Stakeholders | Stakeholders are taxpayers with effective Pollution Control Facilities Tax Credit Certificates. The authority that administers certificates is transparent to the stakeholder; therefore, the program has not consulted with the certificate holders. However, certificate actions will take less time to process. |
| Effects on Small Business, Individuals | **Do the rules affect individuals, small businesses or small communities? If so, what alternatives have been or will be explored to minimize costs, including different requirements for these entities? Have we evaluated the cumulative effect of DEQ requirements and considered existing requirements that could be repealed or modified as these new requirements are adopted?** No change |
| Rulemaking Process |
| Rulemaking Team  | *Identify persons who will be involved in the rulemaking team. Others may be added through the EMT opt in/out process. Estimate hours or FTE and time period for each. At a minimum, identify the sponsoring DA, lead manager, and rule writer.* |
| Rulemaking Team  | Member Name | Time estimate | Duration |
| Sponsoring DA | Kerri Nelson | ½ hr | Dec. 2010 |
| Lead Manager | Greg Aldrich | 1 hour | Dec. 2010 |
| Rule writer | Maggie Vandehey | 12 hours | Dec. 2010 |
| Regional Manager | None |  |  |
| Regional staff | None |  |  |
| Other programs/divisions | None |  |  |
| Other agencies | Dept. of Revenue | 1 hour | Dec. 2010 |
| Advisory Process | This minor rulemaking requires no public advisory process. The program already obtained legal advice about sub-delegation of EQC authority and proposed language. |
| Public Involvement | This rulemaking will go through the public notice and comment process. It requires no additional education or outreach. |
| EQC Involvement | The EQC indicated no additional involvement prior to the adoption meeting. |
| **Rulemaking Target Dates** |  |
|  |  Milestone | Target Dates |
| Advisory Process (e.g., committees; workgroups) |  |
| Publication in SOS Bulletin | 8/1/2010 |
| EQC rule adoption | 10/21/2010 |

**Attachment: Opt In/Out Form**