

Date: November 22, 2010

To: Environmental Quality Commission

From: Dick Pedersen, Director

Subject: Agenda item S, Action item: Housekeeping and streamlining for DEQ-administered tax credits
December 9-10, 2010, EQC meeting

Why this is important Changes to tax credit program rules under division 16 would achieve efficiencies by reducing DEQ and EQC resources spent administering pollution control facilities certificates, reduce Secretary of State charges to maintain rules for the pollution prevention pilot program that ended in 1999 and align new truck engine rules to the 2009 Oregon law.

Background Pollution control tax credits
EQC approved the last new facility certification under ORS 468.150-190 and asked DEQ to take over certificate administration in 2009. Responsibility for certificate administration continues through 2018 and reporting responsibilities continues through 2023. Certificate administration includes certificate transfers, reissuance, revocations or reinstatements after a certificate holder sells a pollution control facility, changes their legal name or changes the facility's operating status.

Pollution prevention tax credits
After the four-year pilot project ended Dec. 31, 1999, EQC issued the last tax credit certificate in 2000 under ORS 468A.095 through 468A.098. Certificate holders could claim the credit over five years and ORS 315.311 provided a four-year carry forward of any unused credits. The last year to claim unused credits was 2008.

Truck engine tax credits
The rules do not align with the 2009 law that extended new truck engine certification to Dec. 31, 2013. Chapter 618, Oregon Laws 2003 is in a legislative note after ORS 315.356 rather than in statute.

Public participation This is a minor housekeeping and streamlining rulemaking; therefore, DEQ did not hold a public hearing. The Secretary of State published public notice of the proposed rulemaking in the Oct. 1, 2010, *Bulletin* and DEQ notified interested parties about the rulemaking by mail and through GovDelivery® Email. The public comment period closed Oct. 25, 2010. DEQ did not receive any comments.

**DEQ
recommendation
and EQC motion**

DEQ recommends that the commission:

- Amend OAR 340-016-0080 and adopt OAR 340-016-0088 to allow DEQ to perform pollution control tax credit certificate administration tasks,
- Repeal OAR 340-016-0100 through 340-016-0150 for the pollution prevention tax credit pilot program, and
- Amend OAR 340-016-0210 for the truck engine tax credits program to align with the 2009 law.

**EQC action
alternatives**

EQC may postpone taking action on any one tax credit program if commissioners would like additional information.

Attachments

- A. Division 16 redline/strikeout rule
- B. Statement of Need and Fiscal and Economic Impact
- C. Relationship to Federal Requirements
- D. Land Use Statement

**Available upon
request**

ORS 468.150 to 468.190; ORS 468A.095 through 468A.098; ORS 315.304, 315.311, 315.356 and 315.405

Approved:

Division: _____

Section: _____

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