



Oregon

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Date: April 17, 2017

To: Senate Committee on Business and Transportation

From: Mike Kaplan, Director

Subject: Energy Conservation Tax Credit – SB 170

Senate Bill 170 would extend the Energy Incentive Program (EIP) energy conservation tax credit beyond the current sunset at the end of tax year 2017. The Department of Energy administers this program and does not support the extension of this tax credit.

In a letter to leadership dated June of 2016, Governor Brown recommended that three tax credit programs be allowed meet their legislatively established sunset at the end of 2017. Those programs include the Residential Energy Tax Credit, the Biomass Producer and Collector Tax Credit, and the Energy Incentive Program.

The Department of Energy encourages the Senate Committee on Business and Transportation to recommend the natural sunset of this tax credit program at the end of the 2017 tax year.

EIP: ENERGY CONSERVATION TAX CREDIT PROGRAM



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The conservation tax credit program sunsets at the end of tax year 2017. The Oregon Department of Energy does not support the extension of this tax credit and the program should be allowed to sunset as scheduled.

The conservation tax credit program provides incentives to businesses, organizations, public bodies, nonprofits, and federally recognized tribes that make a capital investment in energy efficient devices, measures, or upgrades that yield a simple payback period greater than three years. The conservation tax credit program is capped at issuing no more than \$28 million in tax credit preliminary certifications during any biennium.

BACKGROUND

The conservation tax credit program was created by HB 3672 (2011) and amended by HB 4079 (2012) to encourage capital investments in energy efficient devices, measures, or upgrades that yields a simple payback period greater than three years. Applications for conservation projects were first accepted in 2012.

In 2015, HB 2448 authorized ODOE by rule to require projects with certified costs of \$1 million or more to enter into a performance agreement as part of final certification. To receive the full value of the tax credit, these project owners must recertify the tax credit annually for three years following final certification. The performance agreement and recertification requirement tie the use of the tax credit to the energy performance of the conservation project. The conservation tax credit program sunsets at the end of tax year 2017.

PROGRAM FUNCTION

ODOE divides the available tax credit funding for the conservation program among competitively selected projects and non-competitive small premium projects.

Small premium project opportunity announcements are for pre-qualified conservation projects with under \$20,000 in qualifying cost. These projects reserve tax credits on a first-come, first served basis through a simplified application process. The simplified process is allowed for prequalified measures that are well-understood and applicants have one year to complete the project. Eligible projects include LED lighting, heat pump water heating, ductless heat pumps, building envelope improvements, and other project types listed on ODOE's website. ODOE reserves tax credits based on the predetermined average cost of the device or measure. The applicant has one year to complete the project and submit a final application. ODOE reviews the final application and may inspect the project to ensure program compliance. If the final application is approved, the applicant will receive a tax credit based on the reserved amount but no more than 35 percent of the actual cost of the project. The tax credit is a one-year credit that may be claimed all in the first year.

The other part of the conservation tax credit program is for projects that apply through competitively selected open opportunity announcements. These projects have included commercial buildings, combined heat and power, renewable thermal, and commercial agricultural and industrial processes.

STATUTE:

[ORS 315.331](#)

[ORS 469B.270 – 469B.306](#)

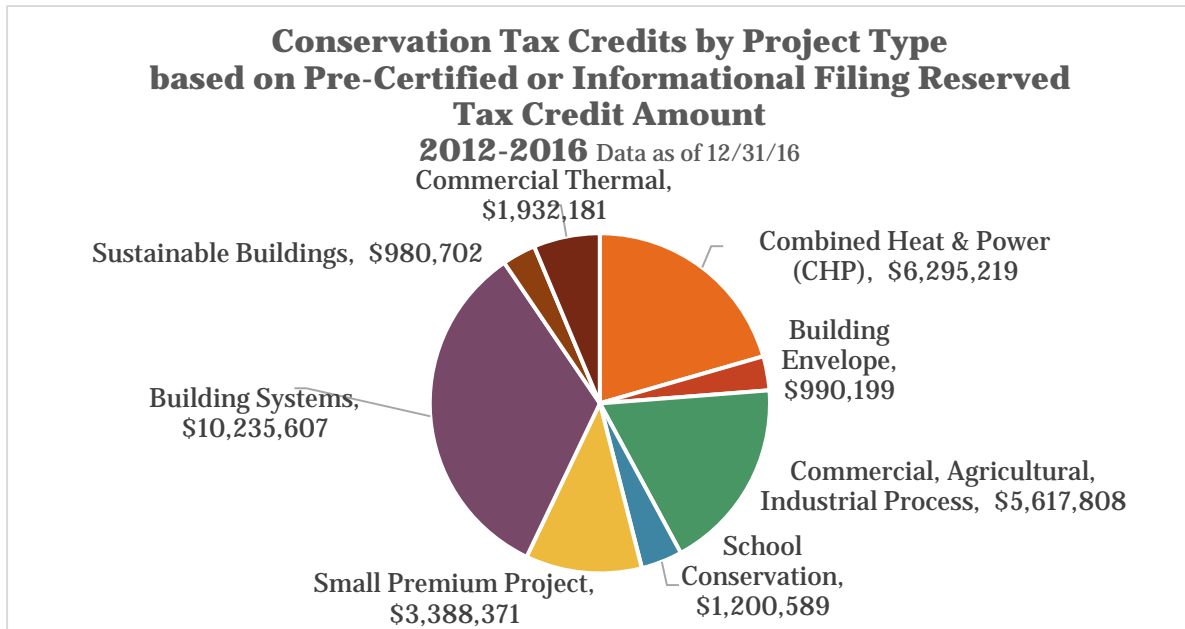
RULES:

[OAR 330-210](#)

WEBSITE:

www.oregon.gov/energy/At-Work/Pages/Energy-Incentive-Programs.aspx

Under the competitive process, ODOE issues opportunity announcements by project type. Applicants submit an application for preliminary certification, and ODOE performs a completeness review. Complete applications are scored and competitively ranked according to criteria in rule and the opportunity announcement. Based on available funding, the top ranked applications are moved into technical review. During the technical review, ODOE reviews the information provided in the application against industry standards to determine whether the project is technically feasible and should operate in accordance with the representations made by the applicant. If the project passes technical review, a preliminary certificate is issued for the project; it is valid for three years or until the sunset of the program, whichever comes first. Preliminary certificates can be issued for no more than \$10 million in certified cost.



Once projects are completed and operating, project owners submit a final application. ODOE reviews the application and may inspect a project before issuing a tax credit up to 35 percent of the certified cost. For projects not exceeding \$20,000 in certified cost, the tax credit may be claimed in one year. The tax credit is taken over five years for projects over \$20,000 in certified cost. All applicants pay fees to cover the cost of administering the program. All projects issued a tax credit must remain in operation for at least five years. ODOE may inspect a project prior to issuing a final certificate or during the required five year period of operation.

Projects with certified cost of \$1 million or more are also subject to a performance agreement as part of final review and certification. The performance agreement requires the recertification of the tax credit annually for up to three years after final certification to ensure project operation and performance. The applicant will only receive the entire value of the tax credit upon meeting the requirements of the performance agreement.

Project owners may use the tax credit themselves or sell the tax credit using the pass-through or transfer process administered by ODOE. The present value rate for the sale of the tax credit is calculated by formula adopted in rule set at the time ODOE receives the preliminary application.

The Department of Revenue administers tax laws which also govern the issuance and claiming of tax credits. ODOE defers to the Department of Revenue when addressing issues of how the tax credit may be claimed. ODOE provides data regarding tax credits issued to the Department of Revenue.

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