

## A Renewable Energy Law Update

05/17/10

### **Oregon Department of Energy Releases Update on Business Energy Tax Credit Program Including List of Projects Holding Preliminary Certificates and a Tiered Priority System for New Preliminary Certificate Applications**

On May 12, 2010, the Oregon Department of Energy ("ODOE") issued a news release that provided an update on how the Business Energy Tax Credit Program (the BETC Program) is proceeding under the new statutory guidance and BETC Program caps created under HB 3680 during the 2010 legislative session. Some of the key developments include:

- **Renewable Energy Project Credit Allocations Closing in on Current BETC**

**Program Cap** – The Legislature created a \$300 million program-wide cap for issuance of preliminary tax credit certificates during the current biennium ending June 30, 2011. ODOE estimates it has allocated approximately \$218 million of that cap to preliminary certificates it received prior to January 1, 2010. A list of the projects to which \$218 million is allocated can be viewed at the ODOE link, [http://www.oregon.gov/ENERGY/news/1016BETC\\_Cap.shtml](http://www.oregon.gov/ENERGY/news/1016BETC_Cap.shtml). Most of the projects will receive under \$100,000 in tax credits, but ten projects reach the maximum per project credit of \$10 million.

- **New Tiered Priority System Announced for New Applications** – For preliminary applications for renewable energy projects received after January 1, 2010, ODOE announced a three-tier priority system. On June 1, \$60 million in tax credits will be allocated to new applications during the period between June 1 and December 30,

2010. Of that amount, \$10 million is available for projects requesting less than \$250,000 in tax credits (“Tier 1”); \$20 million is available for projects requesting \$250,000 to \$2,999,999 (“Tier 2”); and \$30 million is available for projects requesting \$3 million or more (“Tier 3”). Tier 1 projects will be awarded preliminary certificates on a first-come-first-served basis. Tier 2 and 3 projects will be subject to a competitive allocation process under new criteria and guidance to be issued under temporary rules later this month. ODOE has returned all applications it has received since January 1, 2010, along with application fees, and has instructed all applicants to reapply pursuant to the new criteria and guidelines. One factor in the competitive review will likely be a comparison between projects based on cost versus energy output.

- **Future Funding Cycle** – For new renewable energy project applications received after December 31, 2010, any remaining tax credits under the \$300 million cap not committed will be rolled into a second funding cycle commencing January 1, 2011, and ending July 1, 2011. In addition, there is a \$150 million cap for the first half of the following biennium, from July 1, 2011, to June 30, 2012.
- **Other Developments** – ODOE plans to issue temporary rules before the end of May 2010, implementing these and other legislative changes under HB 3680. The temporary rules will include administrative guidance on amendments to preliminary and final certificates and grounds for modifying or revoking preliminary and final certificates.

For more information, please contact the Renewable Energy Practice Group at Lane Powell:

206.223.7000 Seattle

503.778.2100 Portland

[sustainability@lanepowell.com](mailto:sustainability@lanepowell.com)

[www.lanepowell.com](http://www.lanepowell.com)

We provide the *Renewable Energy Law Update* as a service to our clients, colleagues and friends. It is intended to be a source of general information, not an opinion or legal advice on any specific situation, and does not create an attorney-client relationship with our readers. If you would like more information regarding whether we may assist you in any particular matter, please contact one of our lawyers, using care not to provide us any confidential information until we have notified you in writing that there are no conflicts of interest and that we have agreed to represent you on the specific matter that is the subject of your inquiry.

Copyright © 2009 [Lane Powell PC](#)

Seattle - Portland - Anchorage - Olympia - Tacoma - London