

Effective 1/1/2014

63M-4-503 Tax credits.

- (1)
 - (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing standards an alternative energy entity shall meet to qualify for a tax credit.
 - (b) Before the office enters into an agreement described in Subsection (2) with an alternative energy entity, the office, in consultation with other state agencies as necessary, shall certify:
 - (i) that the alternative energy entity plans to produce in the state at least:
 - (A) two megawatts of electricity;
 - (B) 1,000 barrels per day if the alternative energy project is a crude oil equivalent production;
or
 - (C) 250 barrels per day if the alternative energy project is a biomass energy fuel production;
 - (ii) that the alternative energy project will generate new state revenues;
 - (iii) the economic life of the alternative energy project produced by the alternative energy entity;
 - (iv) that the alternative energy entity meets the requirements of Section 63M-4-504; and
 - (v) that the alternative energy entity has received a Certificate of Good Standing from the Division of Corporations and Commercial Code.
- (2) If an alternative energy entity meets the requirements of this part to receive a tax credit, the office shall enter into an agreement with the alternative energy entity to authorize the tax credit in accordance with Subsection (3).
- (3)
 - (a) Subject to Subsection (3)(b), if the office expects that the time from the commencement of construction until the end of the economic life of the alternative energy project is 20 years or more:
 - (i) the office shall grant a tax credit for the lesser of:
 - (A) the economic life of the alternative energy project; or
 - (B) 20 years; and
 - (ii) the tax credit is equal to 75% of new state revenues generated by the alternative energy project.
 - (b) For a taxable year, a tax credit under this section may not exceed the new state revenues generated by an alternative energy project during that taxable year.
- (4) An alternative energy entity that seeks to receive a tax credit or has entered into an agreement described in Subsection (2) with the office shall:
 - (a) annually file a report with the office showing the new state revenues generated by the alternative energy project during the taxable year for which the alternative energy entity seeks to receive a tax credit under Section 59-7-614.7 or 59-10-1029;
 - (b) subject to Subsection (5), annually file a report with the office prepared by an independent certified public accountant verifying the new state revenue described in Subsection (4)(a);
 - (c) subject to Subsection (5), file a report with the office at least every four years prepared by an independent auditor auditing the new state revenue described in Subsection (4)(a);
 - (d) provide the office with information required by the office to certify the economic life of the alternative energy project produced by the alternative energy entity, which may include a power purchase agreement, a lease, or a permit; and
 - (e) retain records supporting a claim for a tax credit for at least four years after the alternative energy entity claims a tax credit under Section 59-7-614.7 or 59-10-1029.
- (5) An alternative energy entity for which a report is prepared under Subsection (4)(b) or (c) shall pay the costs of preparing the report.

- (6) The office shall annually certify the new state revenues generated by an alternative energy project for a taxable year for which an alternative energy entity seeks to receive a tax credit under Section 59-7-614.7 or 59-10-1029.

Amended by Chapter 414, 2014 General Session