Rules of

Department of Agriculture

Division 100—Missouri Agricultural and Small Business Development Authority

Chapter 10—New Generation Cooperative Incentive Tax Credit Program

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Title 2—DEPARTMENT OF AGRICULTURE
Division 100—Missouri Agricultural and Small Business Development Authority
Chapter 10—New Generation Cooperative Incentive Tax Credit Program

2 CSR 100-10.010 Description of Operation, Definitions, and Method of Distribution and Repayment of Tax Credits

PURPOSE: This rule describes the operation of the program, defines terms, establishes the method used to distribute the tax credits, and repayment of tax credits.

(1) General Organization.

(A) The Missouri Agricultural and Small Business Development Authority is authorized to issue new generation cooperative incentive tax credits to members of an eligible new generation cooperative as defined in section 348.432, RSMo.

(2) Definitions. As used in this rule, the following shall mean:

(A) "Employee Qualified Capital Project": Sixty (60) full-time employees or equivalent must be employed no later than twenty-four (24) months from the time the eligible new generation cooperative becomes operational. Sixty (60) full-time employees or equivalent must be maintained for a period of at least five (5) years. Full-time employee is defined as a person working at least thirty-five (35) hours per week. Equivalent employee includes part-time employees fifteen to twenty-five (15–25) hours per week as 1/2 employees and part-time employees working twenty-six to thirty-four (26–34) hours per week as 3/4 employees. Full-time employees and/or equivalency must be certified to the Missouri Agricultural and Small Business Development Authority (the authority) on or before the anniversary date of the tax credits issuance for each of the first five (5) years after reaching the required sixty (60) employees and may be verified more frequently at the discretion of the authority;

(B) "Employee": An employee of the eligible new generation cooperative is someone who works a minimum of thirty-five (35) hours per week for fifty-two (52) weeks in a twelve (12)-month period;

(C) "Maintenance of sixty (60) employees": Sixty (60) employees, once reached during or at the end of the twenty-four (24)-month period, must be maintained on a continual basis for sixty (60) months.

(3) Operation of the Program.

(A) Application—New generation cooperative applicants may submit applications to the authority on a continuous basis. In Fiscal Year 2001 through December 31, 2016 (when the tax credit provision expires), up to six (6) million dollars in tax credits are available per fiscal year. Of these tax credit allocation amounts, each year the authority will reserve ten percent (10%) of the credits for "small capital projects." The balance of tax credits will be available to "large capital projects" and "employee qualified capital projects." After December 31 of each year, the authority will release any unallocated "small capital projects" tax credits for "large capital projects" and "employee qualified capital projects" or any unallocated "large capital projects" and "employee qualified capital projects" tax credits to "small capital projects."

(B) Issuance—Tax credits will be issued on a first-come, first-serve basis when the required criteria specified herein is met. If the authority receives more tax credit applications than the amount of available tax credits, then those credits which exceed the available amount will be placed on a waiting list to be issued once additional tax credits become available.

(C) Allocation—The authority will provide a letter of conditional approval to any eligible new generation cooperative applicant that conforms to the law and guidelines stated herein. The amount of tax credits which may be issued to a member will be the least of:

1. Fifty percent (50%) of the member's cash investment;
2. Fifteen thousand dollars ($15,000);
3. Member's proration of the maximum amount of tax credits allocated to the project as described below.

(D) Proration—If members' investment in a new generation "large capital project" cooperative would be eligible for tax credits in excess of the project's allocation (maximum allocation per project is $1.5 million) or "employee qualified capital project" (maximum allocation per project is $3.0 million), tax credits will be prorated between members on a percent of investment basis, not to exceed the maximum allowed per member. The proration will be calculated as follows based on applications received by members for each approved eligible new generation cooperative:

1. The amount of each member's investment multiplied by fifty percent (50%) will determine the maximum eligible tax credit, not to exceed fifteen thousand dollars ($15,000).
2. The sum of members' maximum eligible tax credits will be calculated.
3. The amount of tax credits approved for the new generation tax credit divided by the sum of members' maximum eligible tax credits equals the percentage of proration.
4. The percentage of proration multiplied by the member's maximum eligible tax credit equals the amount of tax credit which may be issued to each member.

(E) Repayment of Tax Credits—The authority may revoke, in full or part, any credits if—1) any representation made to the authority in connection with an application proves to have been false when made; 2) the application violates any conditions established by the Authority; or 3) the full-time employees or equivalency requirements are not met. In the event credits must be revoked as a result of underemployment for "employee qualified capital projects," the credit payback amount will be prorated over a sixty (60)-month percentage basis. Repayment may be in the form of a cash payment or by voluntary relinquishment of the tax credits.

AUTHORITY: section 348.432, RSMo Supp. 2008. Original rule filed July 26, 2001, effective Jan. 30, 2002. Amended: Filed Dec. 15, 2004, effective June 30, 2005. Amended: Filed Feb. 11, 2009, effective Aug. 30, 2009.*

**Original authority: 348.432, RSMo 1999, amended 2001, 2002, 2004, 2008.*