

COMMONWEALTH OF VIRGINIA

Department of Environmental Quality

GUIDANCE FOR THE CERTIFICATION OF RECYCLING MACHINERY AND EQUIPMENT FOR STATE INCOME TAX CREDIT UNDER SECTIONS 58.1-439.7 AND 58.1-439.8 OF THE CODE OF VIRGINIA

Revised July 20, 2007

GUIDANCE FOR THE CERTIFICATION OF
RECYCLING MACHINERY AND EQUIPMENT
FOR STATE INCOME TAX CREDIT

INTRODUCTION:

The Code of Virginia, §§ 58.1-439.7 and 58.1-439.8, directs the Department of Environmental Quality to certify certain machinery and equipment that is integral to the recycling process before the taxpayer is entitled to a state income tax credit. The provisions of § 58.1-439.7 apply to both individuals and corporations (not entitled to credit under § 58.1-439.8). For corporations making an investment of at least \$350 million within the Commonwealth before January 1, 2003 the provisions of § 58.1-439.8 are effective until that date. Prior to the recent legislative changes, § 58.1-439.7 was effective until January 1, 2007. However, the recent amendment to § 58.1-439.7 resulted in changes to the eligibility for tax credit depending on the taxpayer's status.

The tax credit continues to remain in effect for "C" corporations until January 1, 2015. Also until January 1, 2015, individuals and "pass-through" corporations are entitled to claim the credit for certified equipment purchased after January 1, 2008¹.

The machinery and equipment must be certified for recycling by the Department of Environmental Quality in accordance with §§ 58.1-439.7 and 58.1-439.8 of the *Code of Virginia*.

I. DEFINITIONS:

For the purpose of this standard, the following terms have these meanings:

"Certification" means a signed statement (see Form DEQ 50-11S) by the director of the Department of Environmental Quality that the identified machinery and equipment qualify as integral to the recycling process.

"Department" means the Department of Environmental Quality.

"Director" means the director of the Department of Environmental Quality or his designee.

"Integral to the recycling process" means that the machinery and equipment or system of machinery and equipment is used primarily to process recyclable material to meet a manufacturer's material input specifications or to incorporate recyclable materials into a manufacturing process.

¹ The applicant should contact Department of Taxation or State Corporation Commission for determination of type of corporation.

"Finished product" means material that has been processed and is ready for sale except for packaging.

"Machinery or equipment" means a mechanical unit or system which processes material.

"Primarily" means greater than fifty (50) percent of time, of usage, or other appropriate measure.

"Process" or **"Processing"** means preparation, treatment, or conversion of a product or material by an action, change or function or a series of actions, changes, or functions that bring about a desired end result.

"Recyclable" means capable of being diverted or reclaimed from the waste stream and prepared for further beneficial use through the recycling process.

"Recycled" means having reached the end of one useful life or one intended purpose, and then being converted and utilized as a raw material in the production of another product which may or may not be similar to the original product. The resultant manufactured product is said to have "recycled" content.

"Recycling" means the process of separating a given product or material from the waste stream and processing it so that it is used again as a raw material for a product which may or may not be similar to the original product.

"Taxable year" means, for the purpose of this standard, all taxable years beginning on and after January 1, 1993 and continuing until no longer extended by the General Assembly. Virginia's taxable year follows the calendar or fiscal year for federal taxable purposes.

II. QUALIFYING MACHINERY AND EQUIPMENT:

1. In order to qualify, recycling machinery and equipment must be operated at a facility located in Virginia.
2. Qualifying recycling machinery and equipment include any piece or system of machinery or equipment used exclusively in or on the premises of manufacturing facilities or plant units which manufacture, process, compound, or produce items of tangible personal property from recyclable materials, within the Commonwealth, for sale. Such processing may include (but is not limited to) flattening, shredding, melting, pulping, compaction, granulation, liquefaction, or classification.
3. Qualifying recycling machinery and equipment also include any piece or system of machinery or equipment in a manufacturing facility primarily used to incorporate recycled material into the production process.

4. Exceptions:

- A. Machinery and equipment used in the preparation of all or any part of the solid waste stream for the purpose of combustion, unless otherwise determined by the director to be a process with a significant recycling value.
- B. Machinery and equipment used to incorporate a finished product with recycled content, which is no longer considered to be a solid waste, unless otherwise determined by the director.
- C. Machinery and equipment used exclusively to handle finished products, unless otherwise determined by the director.
- D. Non-processing or non-manufacturing equipment.
- E. Buildings or other structures.
- F. Repairs and maintenance items.

III. EQUIPMENT CERTIFICATION

The applicant should apply for the tax credit certification by submitting Form DEQ50-11S to:

The Department of Environmental Quality
Attention: Equipment Certification Officer
PO Box 1105
Richmond, VA 23218

The applicant will provide, at a minimum, the following information:

1. The purchaser's name and address;
2. The name and location of the facility in which the machinery and equipment will be used;
3. A description of the machinery and equipment and its intended use in the facility;
4. A statement by the purchaser of the machinery and equipment that would qualify the purchase for tax credit; and

5. Documentation of ownership (copies of purchase receipts, invoices, or such other documents as may be necessary to confirm the purchaser's statement of purchase price paid) appropriate to filing with the Virginia Department of Taxation.

IV. CERTIFICATION REVIEW:

The department will review the information provided on Form DEQ50-11S to determine if the machinery and equipment meets the criteria specified in the Code. Upon completion of the review, the department will return the applicant's form with a written explanation of the certification of the machinery and equipment.

For further assistance about the standards, call the Department of Environmental Quality at 804-698-4145.

V. APPEAL PROCEDURE:

All appeals taken from actions of the director relative to the provisions of these standards shall be governed by the Virginia Administrative Process Act § 2.2-4000 et seq. of the *Code of Virginia*

VI. TO RECEIVE TAX CREDIT:

Upon certification, the form and attachments will be returned to you. In order to qualify for a state income tax credit, along with the tax return submitted to the Virginia Department of Taxation, the applicant shall attach the approved Form DEQ50-11S (or other certification document prepared by the Department of Environmental Quality), and documentary proof of purchase price paid for the equipment. For further assistance on taxation matters please call 804-225-4265.