

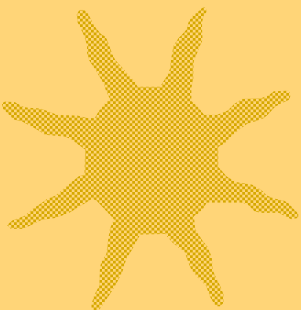
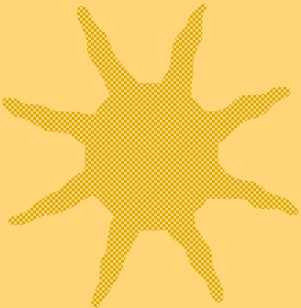
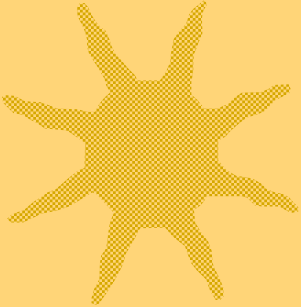
Renewable Energy and Zones: Recent Tax Incentive Changes

*Oregon Economic Development Association
Spring 2008 Training Conference
April 21, 2008
Salem, Oregon*

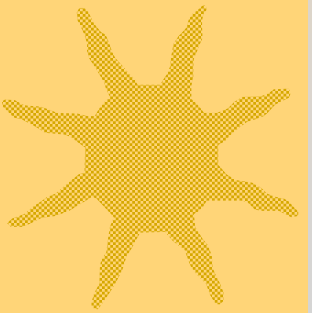
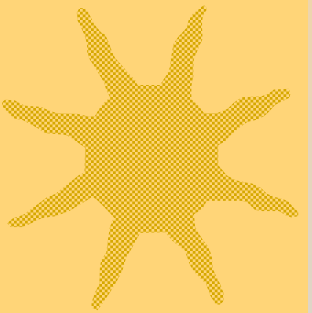
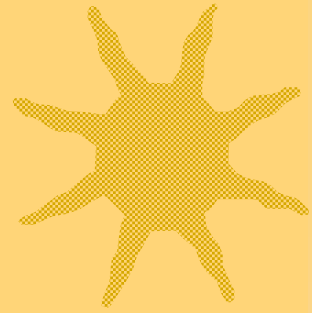
Oregon Economic & Community Development (OECD)
Business and Trade Development Division
Arthur Fish, Business Incentives Coordinator



OUTLINE



- ★ Introductory Context: Renewable Energy, “Zones” and Tax Incentives
- ★ Renewable Energy Income Tax Credit Changes
- ★ ‘Rural Renewable Energy Development Zones’
- ★ Other, Newer Zone Types for Tax Incentives
 - Strategic Investment
 - Electronic Commerce
 - Reservation
- ★ And More as time allows



Introductory Context



INCENTIVES: ROLES & REASONS

- ★ *Global* economic climate: Oregon and its business firms must compete & market
- ★ Businesses look to the Bottom Line
- ★ We need to generate investment and jobs (higher-paying, industrial, *traded sectors*)
- ★ Critical to getting interest ... closing deal
- ★ Return on Investment—growth, revenue
- ★ Compensate for public policy demands



TOOLS NOT ADDRESSED HERE, TODAY

- ★ Various programs, services, *etc.* that critically allow for/facilitate development and business growth, but have non- or semi-incentive effect on *private sector* decision-making.
- ★ A few other “TAX” incentives that abate business property or income taxes
- ★ NON-TAX, grant-like incentives, except for the sale of business energy facility tax credits
- ★ Business climate, regulation and relative cost environment for business investment operations



ZONE-CONCEPT

- ★ Classic of “enterprise zones”
- ★ Advantages: *Why emulated?* ...
 - State Constitutional clauses related to “taxes”
 - Political advantages of communication
 - Facilitates state–local division of roles
 - Ready basis for program parameters and geographic targeting or control
 - *Success of Oregon’s enterprise zone model?*

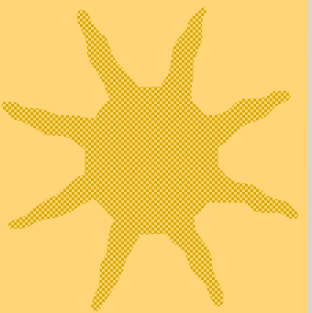
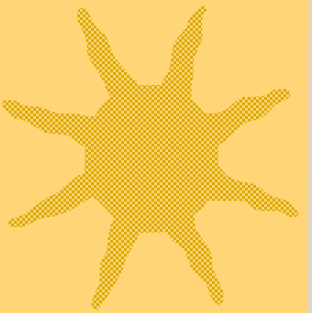


RENEWABLE

ENERGY—Narrow sector, big opportunity

- ★ Energy production (allowed sources):
 - Kinetic–electrical—wind turbines, ocean waves
 - Direct solar—thermal/electric, photovoltaic (PV)
 - Geothermal
 - Biomass* combustion & ... -derived (vehicular) fuel
- ★ Manufacturing of (*e.g.*, PV[†]) devices, materials
- ★ Characteristics ([†]like semiconductor fabrication)
 - High capital costs – property taxes
 - Energy inputs – power rates
 - Skilled labor – silicon
 - Land: sizeable, ready-to-go sites are crucial!

* Permissible sources/types of organic matters vary by program in terms of byproducts or waste streams, renew-ability and intentionally grown/harvested



Renewable Energy Income Tax Credits



BUSINESS ENERGY TAX CREDIT (BETC)

- ★ Traditionally, credit = 35% of capital cost of State-certified energy facility
- ★ Offsets liability on state tax return for corporate or business/personal income taxes, over 5 years
- ★ Carry unused credits forward 8 additional years
- ★ ***CRITICALLY*** “transferable” to other Oregon taxpayer(s) for upfront cash at established *pass-through* rate (roughly = 70% of credit’s face value), 25.5% relative to 35%

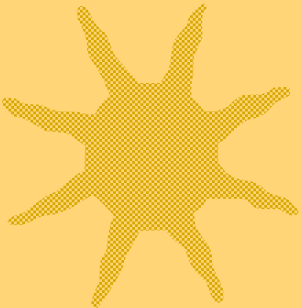
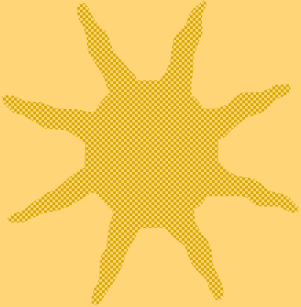


BETC (What it's used for)

- ★ Used for years (by nonprofits too) for energy conservation or demand-side management
- ★ Based on facility investment costs in efficient equipment or upgrades (10% better than code or standard), recycling, sustainable buildings, telecommuting, transit, RD&D, and so forth
- ★ Also production or consumption of renewable energy resources—*i.e.* not fossil or conventional hydro—though, not as much historically
- ★ RD&D-project provisions extended to making equipment for alternative energy applications



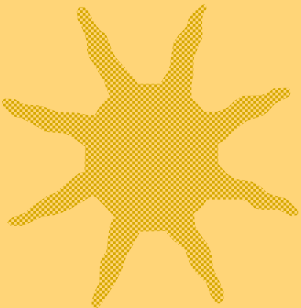
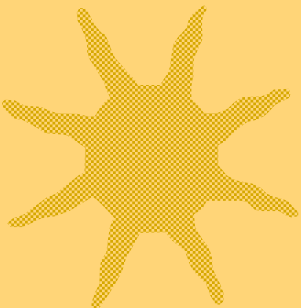
BETC (Basic procedures)



- ★ Potentially multiple/different BETC projects with a single business re-/development
- ★ Eligible facilities **pre-certified** by State Department of Energy *before* investment starts
- ★ Application(s) entail fees and excellent assistance from energy department staff
- ★ Pre-certified *costs* capped, traditionally for everything, at \$10 million per year per project
- ★ Certification for actual, eligible costs up to 110% of pre-certified amount, within three years of project completion



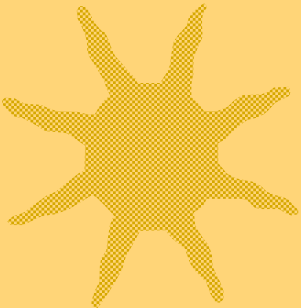
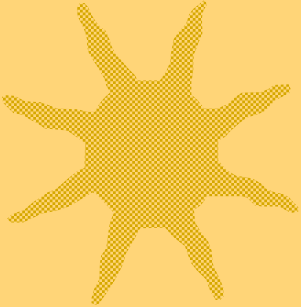
BETC (2007 Changes)



- ★ Response to economic and environmental potential of renewable energy sector
- ★ All renewable energy projects (and high efficiency combined heat & power):
 - Credit = 50% (10% per year, pass-through = 33.5%)
 - Project maximum = \$20 million
- ★ Renewable energy equipment manufacture specified as eligible type of project
- ★ Entire program expires on January 1, 2016



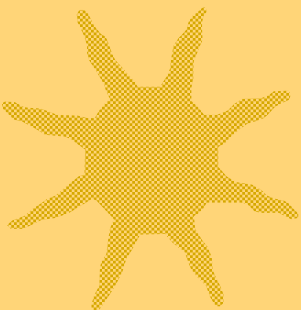
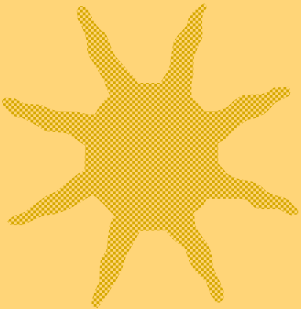
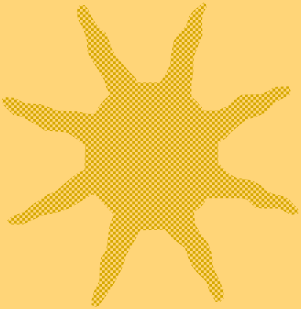
BETC (2008 Changes)



- ★ For manufacture of equipment exclusively used with renewable energy resources
 - Project maximum = \$40 million
 - New, non-technical criteria, subject to ODOE:
 - Non-declining revenue (annual & quarter) forecast
 - Likelihood that proposed facility will succeed
 - Anticipated increase in employment in Oregon
 - Financial viability of proposed facility
 - Estimation that investment decision based on tax credit
- ★ Further specification of contingencies for credit revocation and transferees (held harmless)



BETC (Process, \$40m example)



1. Project owner meets with Department of Energy (ODOE)
2. Owner application (fee = 0.6% of cost \leq \$35,000)
3. ODOE review—*if approved* (new standards), owner receives “preliminary certificate”
4. Owner begins and completes project
5. Owner submits request for final certification
6. ODOE review—plant operational, objectives met, standards ..., *etc.*—*if approved*, certified eligible costs \leq \$44 million



BETC (Process, \$40m example)

7. Owner benefits from 50% tax credit

OPTION 1

Owner claims \$4.4 million for each of next five years (10% of eligible costs per year), with 8-year carry-forward periods

OPTION 2

In exchange for \$14.74 million (33.5% of eligible costs), owner sells credit to *pass-through partner*, who uses OPTION 1



BETC (Pass-through Option)

1. Before and/or after project completion, owner finds pass-through partner (ODOE can help)
2. Owner and partner sign ODOE pass-through application/agreement; partner commits to pay lump sum based on final eligible costs
3. With final certification, owner receives lump-sum payment and partner(s) receives ODOE certificate for all or portion of credit amount

Pass-through
partner



The
Company



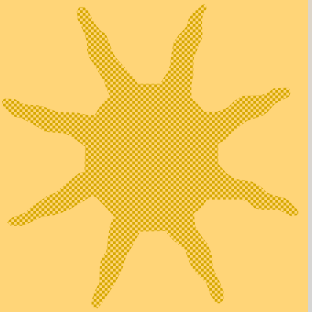
NEW BIOFUEL RAW MATERIALS TAX CREDIT

- ★ Claimed by either Agricultural Producer or Biomass Collector (not both)
- ★ Based on recorded quantities purchased to make liquid, gaseous or solid biofuels *in Oregon*
- ★ Tax years: 1/1/2007 thru 12/31/2012
- ★ Taxpayer may carry unused credits forward for four additional years
- ★ Or, ... may transfer credit to another taxpayer through simple joint filing procedure



NEW BIOFUEL RAW MATERIALS TAX CREDIT

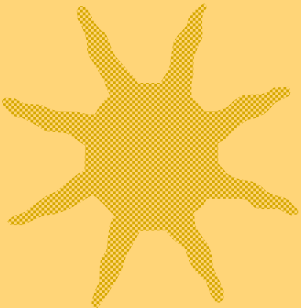
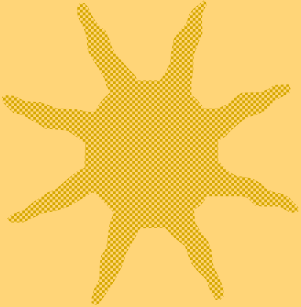
- ★ Quantity-based rates determine credit:
 - 5¢ per pound of oil seed crops
 - 90¢ per bushel of grain crops
 - 10¢ per gallon of cooking oil or waste grease, or virgin oil or alcohol from Oregon-based feedstock
 - \$10 per wet ton of wastewater “biosolids”
 - \$10 per green ton of woody biomass from agriculture, nurseries, forests, including thinning, and agricultural vegetative biomass (*e.g.*, straw)
 - \$5 per wet ton of yard debris or food waste
 - \$5 per wet ton of manure or renderings
- ★ Excludes corn grain, and until 2009, wheat grain



*Rural Renewable
Energy Development
Zones*



“RRRED” ZONE DESIGNATION



- ★ Allowed in 2003 to avoid “gerrymandered” enterprise zones for wind farms
- ★ Designation: by/for entire county, city or multiple counties
- ★ Designation at local request/resolution to OECD (which requires notice to all taxing districts)
- ★ Seven single counties currently designated:

–Union

–Harney

–Wasco

–Sherman

–Malheur

–Polk

–Linn



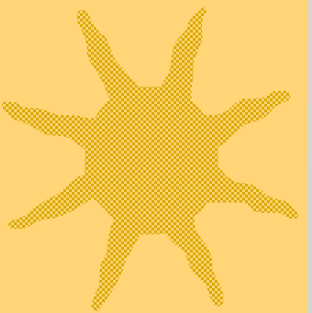
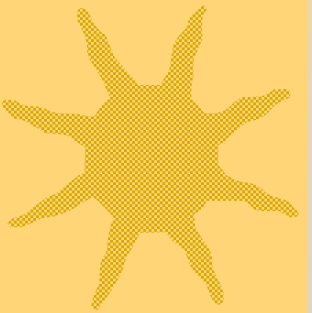
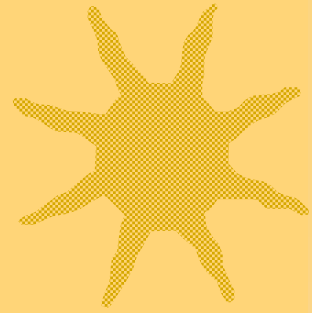
INCENTIVE: STANDARD E.Z. EXEMPTION

- ★ New, additional plant & equipment (not land)
100% exempt from taxation
- ★ Three years automatic with new full-time hiring
(110%) for “*eligible*” firms—in this case, only:
 - Biofuel production, distribution or storage (new)
 - Electricity generated from a “renewable energy resource” like BETC
- ★ Four/five years—high compensation &
agreement with local sponsor
- ★ Begins in year after property “placed in service”
—but NOT beforehand during construction (for up to
two years) if centrally assessed/utility property



RREDZ (2007 Changes)

- ★ “Rural” redefined—now any county, but only outside metropolitan and larger-city UGBs
- ★ In addition to electricity generation, biofuels allowed:
 - Liquid (*e.g.*, biodiesel), gaseous and solid biofuels *for sale*, and certain USEPA verified fuel additives
 - Broad definition of biomass in terms of wastes, ...
- ★ Maximum cap for total amount of exempt project value (initial RMV) raised from \$100 to \$250 million; sponsor may still set it lower



*Other Types of
Newer 'Zones'*

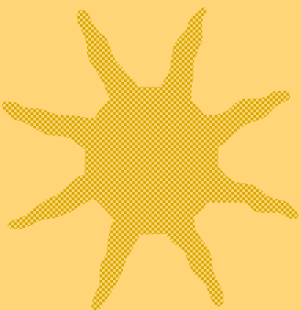
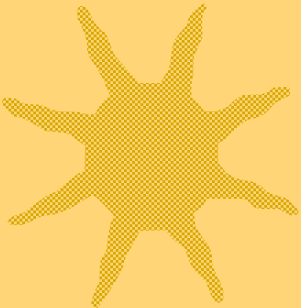


STRATEGIC INVESTMENT ZONES

- ★ Provided for in 2005 Laws
- ★ Same tax treatment for massive capital projects as Strategic Investment Program (SIP)
- ★ More automatic, streamlined approach in a specifically bounded area
- ★ Administrative rule drafts available; soon to be proposed with development of materials for:
 - Local sponsorship of zone designation
 - Business applicants
- ★ Number & geography unlimited, but no way to change boundary or terminate a zone



STRATEGIC INVESTMENT ZONES (Designation)

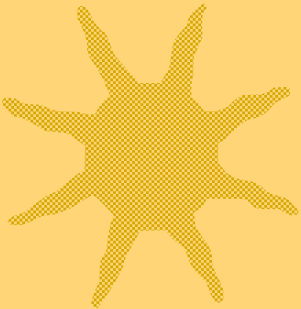


- ★ County (and city) seek designation from Oregon Economic & Community Development Commission (OECDC), pursuant to county hearing and county–city agreement
- ★ Besides boundary and zone objectives, request must stipulate local program:
 - Process for business seeking zone authorization
 - Methods to encourage local hiring
 - Local additional criteria or requirements
 - Standardized agreement for business to complete
- ★ Department reports request to OECDC



STRATEGIC INVESTMENT PROGRAM (SIP) – Rural

- ★ Rural program begun in 2003; lately used for massive wind-energy farms in particular
- ★ For 15 years, property value of new facility exempt in excess of \$25-million portion, which increases by 3% per year
- ★ Community service fee = 25% of annual tax savings up to \$500,000, distributed among city, county and most non-school tax districts
- ★ Possibly other local conditions, payments, *etc.*
- ★ Future transfers: 50% of state revenue (‘07 Law)₂₅



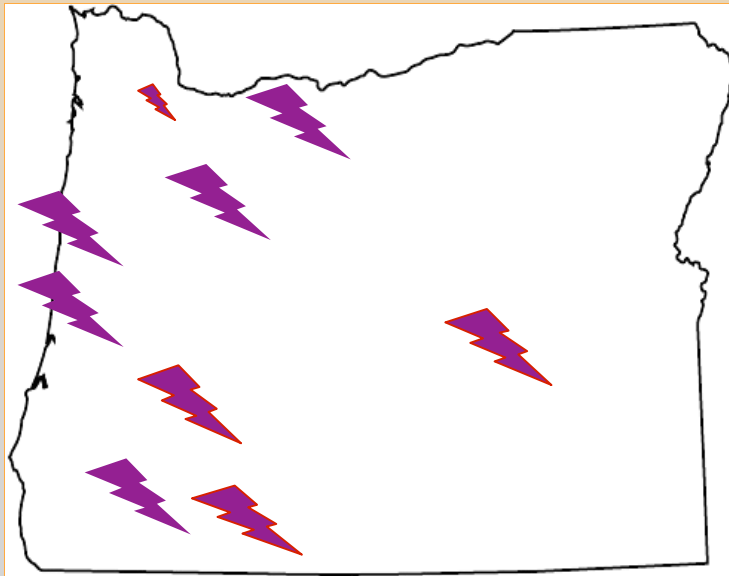
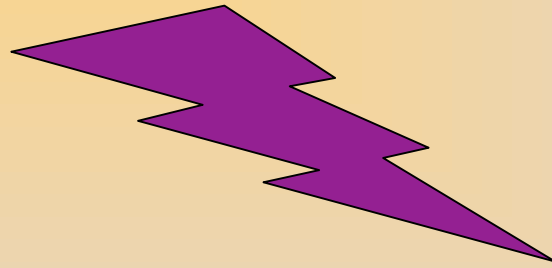
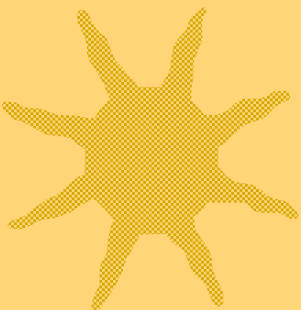
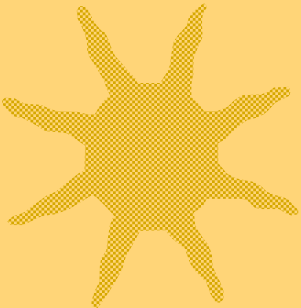
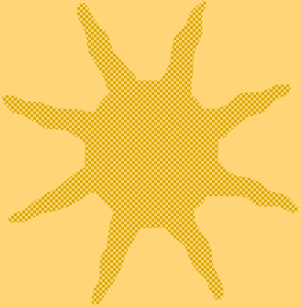


STRATEGIC INVESTMENT ZONE (Process for Projects)

- ★ Business firm approaches local sponsor for ministerial approval to:
 - Execute standard local agreement, and
 - Commit to established conditions
- ★ No local hearings or negotiations
- ★ Applies directly to Oregon Economic & Community Development Department
- ★ Application goes before OECDC for final determination
- ★ NOTE: Only project property newly constructed or installed in zone is allowed tax treatment



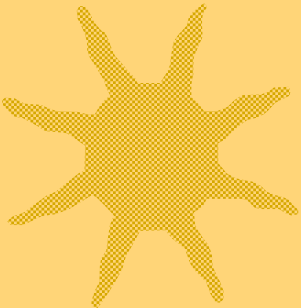
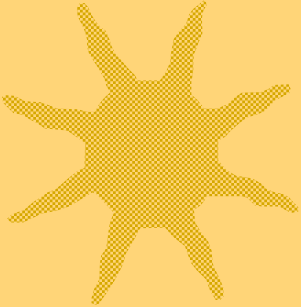
E-COMMERCE ENTERPRISE ZONES



- ★ 2001
Legislature—**special overlay designation** of otherwise existing enterprise zone
- ★ Eight Current Zones
- ★ **Tax Credit!**—major distinction
- ★ Business transaction via Internet



NEW E-COMMERCE ZONES!



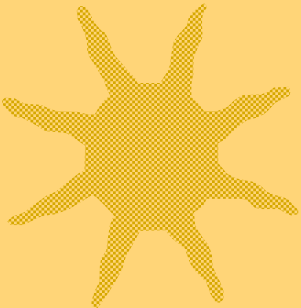
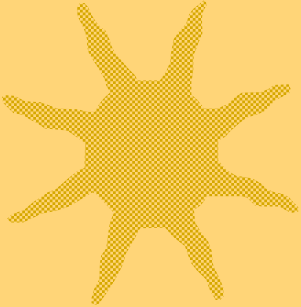
- ★ Six more (July 1, 2006) – **10 total are allowed**
- ★ Now, need business prospect for designation
- ★ Recycle designations that terminate, as well

Relative Criteria

- ★ Geography/sites
- ★ Plans & readiness
- ★ Past Success
- ★ Local support
- ★ Assets/telecom
- ★ Prospects
- ★ Other of choice



E-COMMERCE ZONE BENEFITS



- ★ Business must qualify for standard enterprise zone exemption: hiring, other requirements
- ★ Likely eligible anyway for exemption, but personal property criteria less restrictive
- ★ Combine with Tax Credit for overlay of incentives, especially great for projects with limited property tax exposure
- ★ Big impact in Medford



E-COMMERCE TAX CREDIT

- ★ Assets used in E-commerce, inside zone
- ★ Invested before/during exemption
- ★ Credit equals 25% of capital cost
- ★ Maximum of \$2 million/year/taxpayer
- ★ Personal or corporate State tax liability
- ★ “Other Credits” on tax return—
Code 710, ORS 315.507; keep records
- ★ Five-year carry-forward period



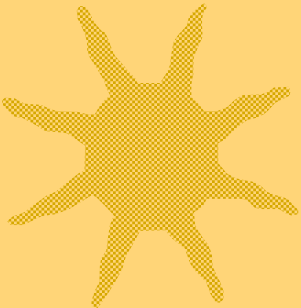
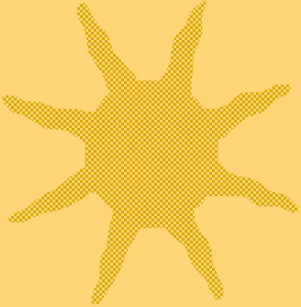
RESERVATION ENTERPRISE ZONES

- ★ Since 2001, federally recognized tribe with reservation entirely in Oregon
- ★ No density criterion with HB 3143 (2005)
- ★ Designated *by* tribal government *without* actual restriction on area or distances
- ★ **Tax Credit!**— offset state income tax with tribal tax ... “*level playing field*”
- ★ Otherwise regular *rural* enterprise zone



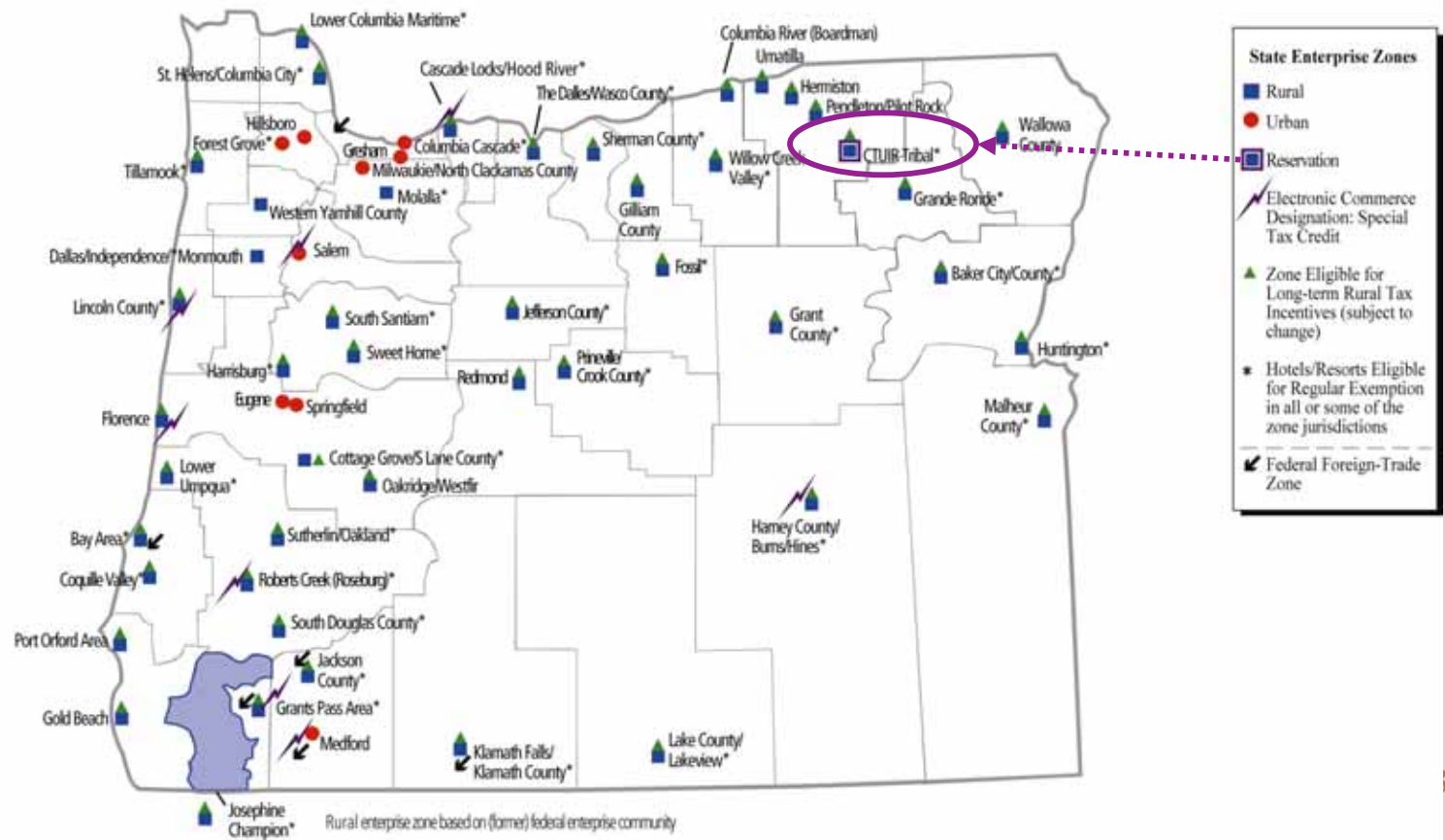
RESERVATION ZONE

(singular, so far)



Oregon Enterprise Zones

September 2007





RESERVATION ZONE DESIGNATION

- ★ Allowed at any time, for any number
- ★ Reservation economics:
 - Income, 80% of state [Burns Paiute, Cow Creek, Coquille, Siletz & W.S., 2000 Census] **AND**
 - Unemployment, two %-pts. Higher [?]
- ★ Initially, **only** on-reservation trust land
- ★ Tribal governing body adopts resolution
- ★ Department reviews request and ratifies



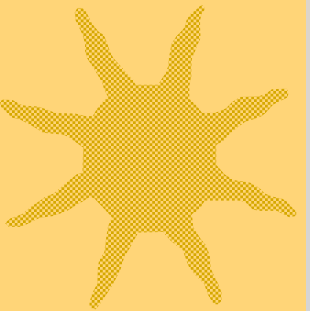
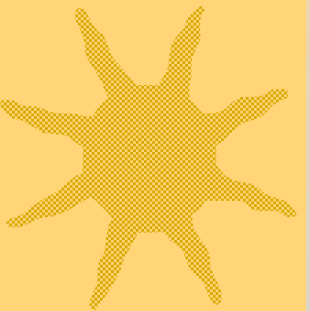
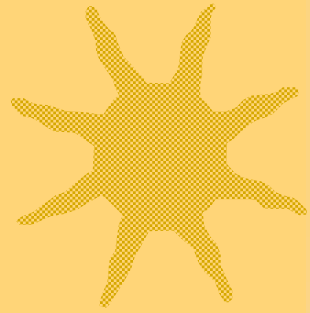
RESERVATION ZONE ONCE DESIGNATED

- ★ Tribal government is “zone sponsor”
- ★ Property tax abatement for businesses—both Standard Exemption and with Long-term Rural Incentives
- ★ Zone amendments can include other land and local cosponsors, but zone must then satisfy normal enterprise zone size limitations
- ★ Re-designation needed after 10 years



RESERVATION ZONE TAX CREDIT

- ★ Virtually any type of business operations – if new to zone/reservation – after 2001 (don't need to be qualifying for standard exemption)
- ★ Firm claims on personal or corporate tax return with special form
- ★ Equals 100% of:
 - All tribal taxes in first year of operations
 - Any year's tribal property taxes... up to state income tax liability ... with no carrying forward to future years



Other Matters If Time



OTHER PROPERTY TAX ABATEMENTS

- ★ **Primary processing M&E: 5-year Exemption — raw/fresh fruit, nuts, legumes, veggies & seafood (^05) ..., and eggs (^07)**
- ★ **Vertical Housing Development Zone (VHDZ)—residential upper stories, special district opt-out, OHCS (^01/^05)**
- ★ **Rural Health Care Facilities (^01)**
- ★ **Alternative energy for self-power (^75)**

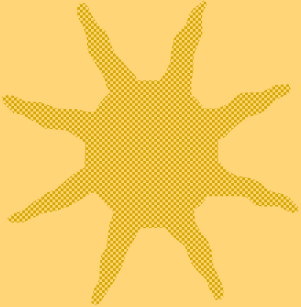


ENTERPRISE ZONES THEMSELVES

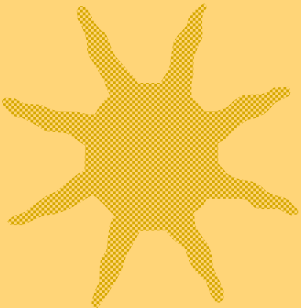
- ★ Local control & sponsorship
(counties & [100] cities, Ports now too!)
- ★ Zone sunsets within 11 years
- ★ Discrete area(s)—size/distances
- ★ Fifty-seven allowed + federal & tribal
- ★ Economic criteria; potential
competition for designation



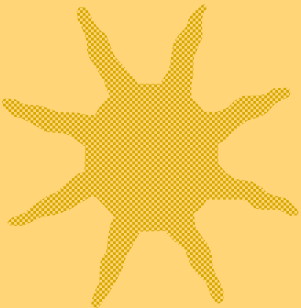
FUTURE ENTERPRISE ZONE DESIGNATIONS



- ★ Replacements of Zones as they Expire (5 in `09, 12 in `10, ...)



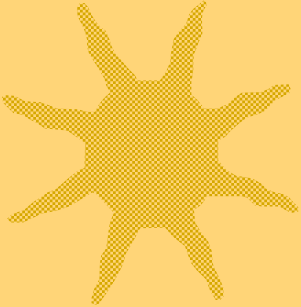
- ★ Ten more in `05, seven designated
- ★ Any economically eligible area ... urban or rural, as well as re-designations



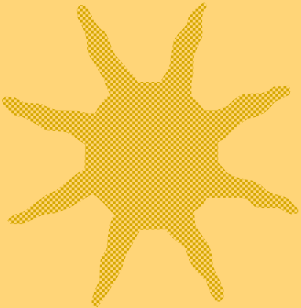
- ★ Sponsored by city/port/county
- ★ Need meaningful **consultation with local taxing districts**, industrial sites, maps ...



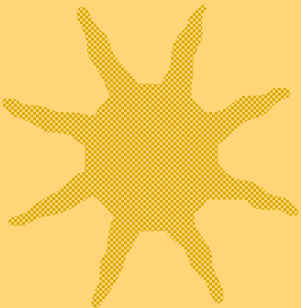
OREGON INVESTMENT ADVANTAGE



★ Facility-specific state income tax
“holiday” over *10 years*



★ Begun in 2001, geographically expanded,
more marketable in 2005 ...



★ Good in one of 21 eligible counties:

- For any type of business in small city–UGB
- For industrial projects, virtually anywhere



OREGON INVESTMENT ADVANTAGE (*continued*)

- ★ Project in *industrially zoned* site or inside urban growth boundary (UGB) of city with population $\leq 15,000$ (small city)
- ★ Also required (besides fees) that:
 - Operations *unique to firm in state*
 - Business not compete in local economy
 - Five or more full-time hires
- ★ Compensation criterion suspended for pre-certifications in 2006 thru 2010

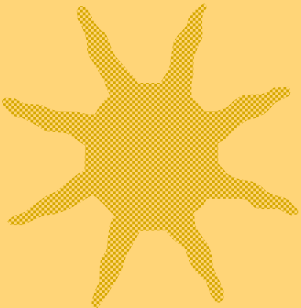
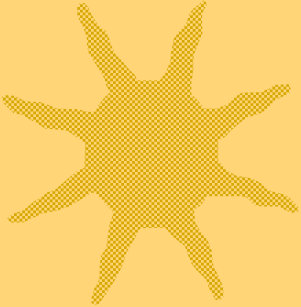


OREGON INVESTMENT ADVANTAGE (*continued*)

- ★ Firm applies for preliminary certification with State/OECD before project start
- ★ Sixty-day local review and potential veto by county, city or port, due to local competition or growth standards
- ★ Project timely completed, then ...
- ★ Firm applies within 30 days of tax year for annual certification—up to 10 times (OECD must act within 30–60 days)



OREGON INVESTMENT ADVANTAGE (*continued*)



- ★ First 10 tax years of operations, subject to elective certification, not deferrable
- ★ Claimed on either corporate tax return, or personal income tax return (*e.g.*, LLC)
- ★ *Example*: \$5 million of taxable income; certified facility is 40% of firm/taxpayer:
 - \$2 million subtracted from taxable income
 - \$122,000 or \$180,000 less taxes due



OREGON INVESTMENT ADVANTAGE (*continued*)

- ★ Percentage of state taxable income attributed to certified facility
- ★ C-corp.—50/50 average of (*in-state*) factors for of payroll & property for facility compared to all of Oregon
- ★ Personal income tax filers:
 - Business firm's share (%) of taxpayer's (Oregon) income, multiplied by
 - Facility's share of business income = $\text{facility-based sales} \div \text{all firm sales}$