

**Arizona Commerce Authority**  
**HEALTHY FOREST ENTERPRISE INCENTIVES PROGRAM**

**Program Guidelines**

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**Overview**

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The Healthy Forest Enterprise Incentives Program (A.R.S. § 41-1516) was established by the Arizona state legislature in 2004 to promote forest health in the state. In 2005 the statute was revised by Senate Bill 1283, which changed the requirements for business eligibility, revised certification procedures and definitions and added two incentives. In 2010, the legislature added reporting requirements for the Arizona Commerce Authority (Commerce), including an annual report to be submitted to the Joint Legislative Budget Committee by May 1<sup>st</sup> of each year. The revised program is effective August 12, 2005 and provides the following tax incentives to certified businesses:

- Transaction privilege tax exemption on purchased equipment
- Transaction privilege tax exemption on leased or rented equipment
- Use tax exemption on equipment purchased out-of-state
- New job income tax credits

A business seeking tax incentives under this program must obtain certification by Commerce and must enter into a Memorandum of Understanding with Commerce. A business must submit a copy of the certification to the Arizona Department of Revenue prior to taking any tax incentives under the program. Arizona Department of Revenue must approve the certification provided by Commerce. The certified business must report annually to Commerce; failure to do so will result in revocation of certification and incentives. Each certificate is effective for twelve-months, therefore, to maintain certification a business must apply for recertification annually and execute a new Memorandum of Understanding.

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**Eligible Recipients of Incentives**

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- Businesses primarily engaged in the harvesting, initial processing or transporting of qualified forest products in Arizona
- Subcontractors for the above

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**Eligibility Requirements for Businesses**

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A **Qualified Healthy Forest Enterprise** must:

1. Be primarily engaged in a qualifying project as described in A.R.S. § 41-1516 (B) (1) and on page 1 of the Memorandum of Understanding.
2. Employ at least 3 full-time employees at the time of certification as described in A.R.S. § 41-1516 (B) (2).
3. Agree to furnish information relating to the amount of state tax incentives it receives every year and the disclosure of that information in composite form as described in A.R.S. § 41-1516 (B) (3).
4. Enter into a Memorandum of Understanding with Commerce as described in A.R.S. § 41-1516 (B) (4).
5. Submit a copy of Commerce certification to the Arizona Department of Revenue before taking any tax incentives as described in A.R.S. § 41-1516 (B) (5).



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## Program Incentives

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The Healthy Forest program provides the following Arizona tax incentives for businesses certified by Commerce:

1. **Transaction privilege tax exemption on equipment.** Under A.R.S. § 42-5061, the gross proceeds of sales or the gross income derived from the sales of qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2014 by a certified business for the harvesting or the initial processing of qualifying forest products shall be deducted from the tax base. *To qualify for the deduction, at the time of purchase the certified business must present a current certification from Commerce and evidence of a current Arizona Department of Revenue approval*
2. **Transaction privilege tax exemption on leased or rented equipment.** Under A.R.S. § 42-5071, the gross proceeds of sales or the gross income derived from the rental or lease of qualifying equipment that is leased from and after June 30, 2004 through June 30, 2014 by a certified business for the harvesting or the initial processing of qualifying forest products shall be deducted from the tax base, if the qualifying equipment is leased for a period of more than five years. *To qualify for the exemption, at the time the lease or rental agreement is executed, the certified business must present a current certification from Commerce and evidence of a current Arizona Department of Revenue approval.*
3. **Use tax exemption on equipment purchased out-of-state.** Under A.R.S. § 42-5159, there is no use tax on the storage, use or consumption in Arizona of qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2014 by a certified business for the harvesting or the initial processing of qualifying forest products. *To qualify for the exemption, at the time of purchase the certified business must present a current certification from Commerce and a current Arizona Department of Revenue approval.*
4. **New job income tax credits.** Under A.R.S. §§ 43-1076 and 43-1162, for taxable years beginning from and after December 31, 2004 through December 31, 2014, a tax credit is allowed for net increases in qualified employment positions by a certified business. *To obtain a tax credit a business must be annually certified by Commerce and approved by the Arizona Department of Revenue. When filing the Arizona tax return Form 332, a copy of the applicable Commerce certification(s) must be attached.* The credits may be used to offset Arizona tax liability and unused amounts may be carried forward for up to five taxable years. Subject to the requirements and restrictions of the statutes, the amount of a credit is equal to:
  - One-fourth of the taxable wages paid to an employee in a qualified employment position during the certification period, not to exceed \$500 per qualified employment position, in the first year or partial year of employment up to a maximum of 200 new qualified employees.
  - One-third of the taxable wages paid to an employee in a qualified employment position during the certification period, not to exceed \$1,000 per qualified employment position, in the second year of continuous employment.
  - One-half of the taxable wages paid to an employee in a qualified employment position during the certification period, not to exceed \$1,500 per qualified employment position, in the third year of continuous employment.

**Limitations:** A tax credit may only be claimed on an original, not amended, tax return. A business that claims an enterprise zone, military reuse zone or defense restructuring credit may not claim a tax credit with respect to the same employee under the Healthy Forest program. (A.R.S. §§ 43-1076 (F) and 43-1162 (F)) A business may claim credits only while certified. To claim second and third year credits the business must be recertified for either the same project or for a different project. The certified business may take credits only if the following requirements are met:

1. The business must employ at least three new full-time employees in qualified employment positions in the first taxable year in which a credit is claimed. To maintain eligibility, the business must have at least three full-time employees in each tax year.
2. Job duties must primarily involve or directly support the harvesting, transporting or the initial processing of qualifying forest products removed from qualified projects into a product having commercial value.
3. All employees on whom a credit is claimed must reside in Arizona on the date of hire.
4. Each position for which a credit is claimed must be for a minimum of 1,550 hours.

5. The business must offer health insurance coverage for employees for which the business bears the premium or membership cost as follows:
  - a. At least 25% of the cost in the third year the business claims a credit
  - b. At least 40% of the cost in the fourth year the business claims a credit and
  - c. At least 50% of the cost in the fifth year and each subsequent year the business claims a credit
6. An employer shall not reduce the amount of existing coverage provided to employees after certification.
7. An employer must pay each qualified employment position compensation at least equal to the wage offer by county as computed annually and announced by Commerce in a press release in December and posted on the website at <http://www.azcommerce.com/doclib/FINANCE/EZ%20Wages.PDF>.
8. An employee must have been employed for at least 90 days in the first taxable year to generate a tax credit.
9. Employee must not have been previously employed by the business within the twelve months prior to the current date of hire.
10. If certification is terminated or revoked, the incentives under this program are subject to recapture under A.R.S. §§ 43-1076 (J) and 43-1162 (J).

**Calculation of Amount of Credits:** For specific instructions on how to calculate the credits to which the business is entitled, see Commerce form “New Job Income Tax Credit Schedule” and Arizona Department of Revenue Form 332.

Co-owners of a business (including partners in a partnership, and shareholders of an S corporation) may each claim only the pro rata share of the credits allowed based on ownership interest. The total credits allowed all such owners may not exceed the amount that would have been allowed for a sole owner of the business. (A.R.S. §§ 43-1076 (H) and 43-1162 (H))

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## Application Process

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- A. Businesses or their subcontractors primarily engaged in harvesting, initial processing or the transporting of qualifying forest products may be certified for healthy forest incentives. A business may apply to Commerce for certification as an Healthy Forest Enterprise by submitting these two Commerce Forms: “Healthy Forest Application for Certification” and “Healthy Forest Memorandum of Understanding”.

The application materials shall include a letter from the U.S. Forest Service or State Forester documenting each qualified project meets the eligibility requirements in A.R.S. § 41-1516 (B). If a business is engaged in a project located on tribal land, the Regional Director of the Bureau of Indian Affairs will provide a letter documenting eligibility. If a letter regarding the project cannot be produced, the applicant should notify Commerce staff to discuss how to document eligibility.

Subcontractors must make separate application on the two forms referenced above and must independently meet the eligibility requirements. Since subcontractors will not have a letter from the U.S. Forest Service or the State Forester, a copy of the contractor’s letter shall be submitted with the application forms. Additionally, the subcontractors shall submit a letter from the contractor in which the contract is acknowledged and specific information regarding contract activity is provided. A copy of the contract between the contractor and the subcontractor may be substituted for the letter.

The letter from the U.S. Forest Service, the State Forester, the U.S. Department of Interior, BLM or BIA must include at least the following information:

1. Contract name, number, cost and effective dates
2. Name of forest and the county in which the project is located
3. Description of the Healthy Forest Enterprise eligible activity to be performed under the contract
4. Documentation of eligibility that includes:
  - a. The percentage of qualifying forest product, by weight, which will be harvested or processed for the project (must be at least 70% or more to be eligible) and the estimated weight of the project in tons
  - b. The percentage of qualifying forest product, by weight, which will be harvested in Arizona for the project (must be at least 75% or more to be eligible) and the estimated weight of the project in tons

- c. The percentage of qualifying forest product to be transported that will be harvested in Arizona (must be 100% to be eligible) and the estimated weight of the project in tons
  - d. The percentage of total miles for transporting qualifying forest products from or to qualifying projects (must be at least 75% or more to be eligible) and the estimated weight of the project in tons
- B. The business must enter into a Memorandum of Understanding with Commerce for each certification period, which contains:
1. Employment goals set by the business. Annually the business must report progress toward meeting the stated goals.
  2. A commitment to continue in business and use the qualifying equipment primarily on qualifying projects in Arizona for the shorter of the term of the Memorandum of Understanding or the operational life of the equipment.
  3. Acknowledgement that Commerce will notify Arizona Department of Revenue and the Arizona Department of Transportation of both certification and of noncompliance.
  4. Agreement to submit a copy of the certification to Arizona Department of Revenue for approval before use.
  5. Authorization for Commerce to adjust, terminate or recapture all or part of the tax incentives for noncompliance with the law, noncompliance with the Memorandum of Understanding or violation of the terms of any government contracts relating to the qualifying project.
  6. Agreement to allow inspections and audits by Commerce, the Arizona Department of Revenue and the Arizona Department of Transportation.
  7. An agreement to provide an annual report to Commerce by March 1 of every year. In the report the certified business shall verify the amount of incentives taken under the program. The business shall report all the business activities during the certification period during the previous calendar year. The report shall also include information with respect to both qualifying and non-qualifying projects. If at any time the business fails to meet the statutory requirements of the program, Commerce pursuant to the Memorandum of Understanding, shall stop, readjust or recapture all or part of the tax incentives provided directly or indirectly to taxpayers.
  8. An agreement to apply for recertification at least 30 days prior to expiration of the current certification and confirm that the business continues to be engaged in a qualified project and that it continues to meet program requirements.
- C. During review of the substantially complete application, Commerce may request additional information, conduct a site visit or discuss the application with the business.
- D. Certification will be granted or denied within 60 days after the receipt of a complete application and necessary documentation. Commerce will send written notice of approval or denial by certified mail to the business.
- E. If Commerce denies certification, the business may appeal the decision in accordance with A.R.S. Title 41 Chapter 6 Article 10.
- F. Upon approval of the application, Commerce shall issue a Letter of Certification As a Healthy Forest Enterprise to the business and execute a Memorandum of Understanding, a copy of which will be sent to the business.
- G. The certified business must submit a copy of the certification to the Arizona Department of Revenue for approval before taking incentives under the program. Approval will be granted or denied within 60 days after receipt of the certification. Failure of the Arizona Department of Revenue to reply within the 60-day period constitutes approval of the certification.

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### Revocation of Certification and Recapture of Incentives

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1. In the annual report a certified business must include documentation on all the business activity as stated in the Application Process above. A.R.S. § 41-1516 (B) (1) provides that a business must document that more than 50 percent of the total business activity was in qualifying project(s) during the certification period. **If a certified business doesn't meet the requirements during the certification period as reported in the annual report, the business' certification will be revoked.** Commerce will notify the appropriate agencies of the revocation, which initiates denial of incentives and recapture of incentives already received during the certification period.

2. Arizona Department of Revenue may terminate the certification if it obtains information indicating a failure of the business to qualify for incentives and comply with program requirements. Arizona Department of Revenue may require the taxpayer to file appropriate amended tax returns reflecting the recapture of the tax incentives.
3. New job income tax credits shall be recovered as follows: If, within five taxable years after a credit was first received, the certification is terminated or revoked other than for reasons beyond the control of the business as determined by Commerce, the credits allowed the business are subject to recapture by increasing the amount of taxes imposed in the year following the year in which the certification was terminated or revoked by an amount determined by multiplying the full amount of all credits previously allowed under the program by a percentage determined as follows:
  - 100% if the initial credit was allowed for the taxable year immediately preceding the taxable year of termination or revocation
  - 80% if the initial credit was allowed two taxable years before the taxable year of termination or revocation
  - 60% if the initial credit was allowed three taxable years before the taxable year of termination or revocation
  - 40% if the initial credit was allowed four taxable years before the taxable year of termination or revocation
  - 20% if the initial credit was allowed five taxable years before the taxable year of termination or revocation

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## Definition of Program Terms

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For the purposes of applying for and maintaining certification for Healthy Forest Enterprise Incentives, the following terms are either defined in A.R.S. § 41-1516 (K) or by Commerce. If a term is not defined, the most commonly accepted meaning will apply. For purposes of this program:

1. "Forest health" means the degree to which the integrity of the forest is sustained, including reducing the risk of fire, insect infestation, benefiting wild land habitats, watersheds and communities.
2. "Harvesting" means all operations relating to felling or otherwise removing trees and other forest plant growth and preparing them for transport for subsequent processing.
3. "Initial processing" means
  - a. The first change, after harvest, in the physical structure of qualifying forest product removed from a qualifying project into a marketable commercial product or component of a product that has commercial value to a consumer or purchaser and that is ready to be used with or without further altering its form.
  - b. Burning qualifying forest products in the process of commercial electric generation or commercial thermal energy production for heating or cooling, regardless of the physical structure of the forest product before burning.
4. "Primarily" means more than 50 percent.
5. "Purchased" means the date in which the certified business commits to buying an item.
6. "Qualified employment position" has the meaning in A.R.S. §§ 43-1076 (C) (3) and 43-1162 (C) (3).
7. "Qualifying equipment" means equipment used directly in the harvesting or initial processing of qualifying forest products removed from a qualifying project. Qualifying equipment does not include self-propelled vehicles required to be licensed by this state, but may include other licensed vehicles as provided by this paragraph. Qualifying equipment includes:
  - a. Forest thinning and residue removal equipment, including mulching and masticating equipment, feller-bunchers, skidders, log loaders, portable chippers and grinders, slash bundlers, and delimiters, log trailers, chip trailers and other trailers that are uniquely designed for handling forest products and that are licensed for operation on public highways.
  - b. Forest residue receiving and handling equipment, including truck dumpers, log unloaders, scales, log decking facilities and equipment and chip pile facilities.
  - c. Sorting and processing equipment, including portable and stationary log loaders, front end loaders, fork lifts and cranes, chippers and grinders, screens, decks and debarkers, saws and sawmill equipment, firewood processing, wood residue baling and bagging equipment, kilns, planning and molding equipment and laminating and joining equipment.

- d. Forest waste and residue disposal and processing equipment, including:
  - i. Processing and sizing equipment, hogs, chippers, screens, pelletizers and wood splitters.
  - ii. Transporting and handling equipment, including loaders, conveyors, blowers, receiving hoppers, truck dumpers and dozers.
  - iii. Waste use equipment, including fuel feed, storage bins, boilers and combustors.
  - iv. Waste project use equipment, including generators, switchgear and substations and on-site distribution systems.
  - v. Generated waste disposal equipment, including ash silos, and wastewater treatment and disposal equipment.
  - vi. Shop and maintenance equipment and major spares having a value of more than \$5,000 each.
8. "Qualifying forest product" means dead standing and fallen timber and forest thinnings associated with the harvest of small diameter timber, slash, wood chips, peelings, brush and other woody vegetation, removed from federal, state and other public forest land and from private forest land.
9. "Qualifying project" means harvesting, transporting or the initial processing of qualifying forest products as required for certification pursuant to this section.
10. "Small Diameter Timber" means standing, live trees less than 16 inches diameter at breast height (DBH).
11. "Substantially complete" means all questions in the application, recertification form or annual report are fully addressed by the applicant and all documents required by Commerce are attached or can be supplied within 14 calendar day after receipt of notification by Commerce of any deficiencies. One extension of an additional 14 calendar days may be requested and granted by the program manager. Applications, recertification form or annual reports that are not substantially complete will be rejected and the applicant notified.

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