

## HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 3481

By COMMITTEE ON REVENUE

June 23

1 On page 1 of the printed A-engrossed bill, delete lines 7 through 19 and delete pages 2 through  
2 26 and insert:

### “BIOFUEL, ETHANOL AND VERIFIED FUEL ADDITIVE FACILITIES

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5  
6 “**SECTION 1.** ORS 307.701 is amended to read:

7 “307.701. (1) As used in this section:

8 “(a) ‘**Biofuel**’ means **liquid or gaseous fuel produced from a biological source, including**  
9 **but not limited to waste and residue from agriculture, forestry or related industries or other**  
10 **industrial or municipal waste.**

11 “(b) ‘Ethanol’ has the meaning given the term under ORS 646.905.

12 “(c) ‘**Production facility**’ means **a facility that is used to produce ethanol, biofuel or ver-**  
13 **ified fuel additives.**

14 “(d) ‘**Verified fuel additive**’ means **a fuel additive that:**

15 “(A) **Has been verified under the United States Environmental Protection Agency’s En-**  
16 **vironmental Technology Verification Protocol or the California Air Resources Board verifi-**  
17 **cation programs; and**

18 “(B) **Is at least 90 percent renewable materials.**

19 “(2) Upon compliance with subsection (4) of this section, the real and personal property of [*an*  
20 *ethanol*] **a production facility that meets the requirements of subsection (3) of this section is exempt**  
21 **from taxation. The exemption shall be 50 percent of the assessed value of the property determined**  
22 **under ORS 308.146. The exemption under this section may be claimed for five assessment years.**

23 “(3) [*An ethanol*] **A production facility may qualify for exemption from taxation under this sec-**  
24 **tion if the facility:**

25 “(a) **Is [*first*] in the process of construction, erection or installation as a new facility after July**  
26 **1, 1993;**

27 “(b) **Is or will be placed in service to produce ethanol, biofuel or verified fuel additives within**  
28 **[*four*] five years after January 1 of the first assessment year for which [*the*] an exemption [*under this***  
29 ***section*] is claimed **under this section or ORS 285C.170 or 285C.175; [*and*]****

30 “(c) **Consists of newly constructed, installed or acquired property, including property that**  
31 **was previously owned by a different owner and used at a different location, that is first**  
32 **placed in service during the calendar year preceding the assessment year for which an ex-**  
33 **emption listed in paragraph (b) of this subsection is claimed; and**

34 “[*c*] (d) **Within [*four*] five years after January 1 of the first assessment year for which [*the*]**  
35 **an exemption [*under this section*] listed in paragraph (b) of this subsection is claimed, is or will**

1 be certified by the State Department of Agriculture as a facility that produces:

2 “(A) Ethanol capable of blending or mixing with gasoline. The blend or mixture shall meet the  
3 specifications or registration requirements established by the United States Environmental Pro-  
4 tection Agency pursuant to section 211 of the Clean Air Act, 42 U.S.C. 7545 and 40 C.F.R. Part  
5 79[.];

6 “(B) Biofuel; or

7 “(C) Verified fuel additives.

8 “(4)(a)(A) In order to claim an exemption from taxation under this section for any assessment  
9 year, the owner of [*an ethanol*] a production facility shall file with the county assessor, on or before  
10 April 1 of the year for which exemption is claimed, a statement verified by the oath or affirmation  
11 of the owner listing all real and personal property claimed to be exempt and showing the purpose  
12 for which the property will be or is used.

13 “(B) In the case of a biofuel production facility or a verified fuel additive production fa-  
14 cility, in addition to the requirements of subparagraph (A) of this paragraph, the application  
15 for exemption must include all of the following:

16 “(i) A list of the taxing districts in which the property is located; and

17 “(ii) A copy of a written notice mailed to each taxing district. The notice must:

18 “(I) State that the applicant is seeking a property tax exemption under this section;

19 “(II) State that a taxing district may elect not to participate in the exemption, in which  
20 case taxes of the district will continue to be imposed on the property of the applicant; and

21 “(III) Comply with any other requirements established by the Department of Revenue.

22 “(b) If the ownership and use of the **production facility** property included in the statement  
23 **described in paragraph (a)(A) of this subsection and** filed for a prior year remain the same, a  
24 new statement [*shall not be*] **is not** required. However, if the ownership or use changes, or if the  
25 facility property is added to or retired, a new statement is required and the property [*shall*] **may**  
26 not be exempt under this section if the statement is not filed. The new statement [*shall*] **must** be  
27 filed no later than December 31 of the year to which the statement pertains.

28 “(5) If the **production** facility property is not placed in service within the time required under  
29 subsection (3) of this section, or if the certification required under subsection (3) of this section is  
30 not obtained within the required time, then the facility property [*shall*] **may** not be exempt for any  
31 year under this section. For any year for which the property has been granted exemption under this  
32 section, the county assessor shall add the property to the assessment and tax roll as omitted prop-  
33 erty in the manner provided under ORS 311.216 to 311.232.

34 “**SECTION 2.** (1) A city, county or other local taxing district with property tax authority  
35 may elect not to participate in an exemption for a biofuel production facility or a verified fuel  
36 additive production facility granted under ORS 307.701.

37 “(2) A taxing district may make the election by filing written notification of the election  
38 with the county assessor of the county in which the taxing district is located before July 1  
39 of the first tax year for which the election is to be effective.

40 “(3) An election made under this section shall be valid for all tax years following the year  
41 for which the election is first made, until the election is revoked by the taxing district.

42 “(4) A taxing district may revoke an election made under this section by filing written  
43 notification of the revocation with the county assessor of the county in which the taxing  
44 district is located before July 1 of the first tax year for which the revocation is to be effec-  
45 tive.

1 “(5) The written notifications of election and revocation described in this section shall  
2 contain the information and be in the form prescribed by the Department of Revenue.

3 “(6) An election or revocation made under this section applies to all biofuel production  
4 facility property or verified fuel additive production facility property within the taxing dis-  
5 trict:

6 “(a) For which an application has been filed under ORS 307.701; and

7 “(b) That qualifies for exemption under ORS 307.701.

8 “SECTION 3. The amendments to ORS 307.701 by section 1 of this 2005 Act apply to pro-  
9 duction facilities for which an application for exemption under ORS 307.701 is first filed on  
10 or after January 1, 2006, for tax years beginning on or after July 1, 2006.

11 “SECTION 4. Section 4, chapter 475, Oregon Laws 1993, is amended to read:

12 “Sec. 4. [(1) *An ad valorem property tax exemption provided by section 2 of this Act is first ap-  
13 plicable to the tax year beginning July 1, 1994.*]

14 “[(2) *Section 2 of this Act is repealed on July 1, 2008. The repeal applies to tax years beginning  
15 on or after July 1, 2008. Notwithstanding that an ethanol production facility has not received five  
16 years of exemption under section 2 of this Act, no exemption for the facility shall be granted under  
17 section 2 of this Act for a tax year beginning on or after July 1, 2008.*] **An exemption for a pro-  
18 duction facility may not be granted under ORS 307.701 for any production facility that has  
19 not qualified for at least one year of exemption as of July 1, 2012.**

20

21

#### “POLLUTION CONTROL FACILITIES

22

23 “SECTION 5. ORS 468.155 is amended to read:

24 “468.155. (1)(a) As used in ORS 468.155 to 468.190, unless the context requires otherwise, ‘pol-  
25 lution control facility’ or ‘facility’ means any land, structure, building, installation, excavation, ma-  
26 chinery, equipment or device, or any addition to, reconstruction of or improvement of, land or an  
27 existing structure, building, installation, excavation, machinery, equipment or device reasonably  
28 used, erected, constructed or installed by any person if:

29 “(A) The principal purpose of such use, erection, construction or installation is to comply with  
30 a requirement imposed by the Department of Environmental Quality, the federal Environmental  
31 Protection Agency or regional air pollution authority to prevent, control or reduce air, water or  
32 noise pollution or solid or hazardous waste or to recycle or provide for the appropriate disposal of  
33 used oil; or

34 “(B) The sole purpose of such use, erection, construction or installation is to prevent, control  
35 or reduce a substantial quantity of air, water or noise pollution or solid or hazardous waste or to  
36 recycle or provide for the appropriate disposal of used oil.

37 “(b) Such prevention, control or reduction required by this subsection shall be accomplished by:

38 “(A) The disposal or elimination of or redesign to eliminate industrial waste and the use of  
39 treatment works for industrial waste as defined in ORS 468B.005;

40 “(B) The disposal or elimination of or redesign to eliminate air contaminants or air pollution  
41 or air contamination sources and the use of air cleaning devices as defined in ORS 468A.005;

42 “(C) The substantial reduction or elimination of or redesign to eliminate noise pollution or noise  
43 emission sources as defined by rule of the Environmental Quality Commission;

44 “(D) The use of a material recovery process which obtains useful material from material that  
45 would otherwise be solid waste as defined in ORS 459.005, hazardous waste as defined in ORS

1 466.005, or used oil as defined in ORS 459A.555; or

2 “(E) The treatment, substantial reduction or elimination of or redesign to treat, substantially  
3 reduce or eliminate hazardous waste as defined in ORS 466.005.

4 “(2)(a) As used in ORS 468.155 to 468.190, ‘pollution control facility’ or ‘facility’ includes a  
5 nonpoint source pollution control facility **that meets the requirements of subsection (1)(a) of**  
6 **this section.**

7 “(b) As used in this subsection, ‘nonpoint source pollution control facility’ means a facility that  
8 the Environmental Quality Commission has identified by rule as reducing or controlling significant  
9 amounts of nonpoint source pollution.

10 “(3)(a) As used in ORS 468.155 to 468.190, ‘pollution control facility’ or ‘facility’ includes  
11 **any of the following that meet the requirements of subsection (1)(a) of this section:**

12 “(A) A biofuel processing plant;

13 “(B) A biofuel production plant;

14 “(C) A farm storage facility that is used exclusively for storing crops used to produce  
15 biofuel and that was not used for any other purpose prior to the date on which an application  
16 for certification under ORS 468.165 is filed;

17 “(D) A biomass conversion plant that uses forest materials, thinnings, slash, brush,  
18 waste or by-products from manufacturing activities to produce electric energy, direct appli-  
19 cation heat, transportation fuel or a substitute for a petroleum-based product;

20 “(E) Equipment used in biofuel processing or biofuel production; or

21 “(F) Equipment used for growing crops that are harvested for biofuel purposes.

22 “(b) As used in this subsection, ‘biofuel’ means liquid or gaseous fuel produced from a  
23 biological source, including but not limited to waste and residue from agriculture, forestry  
24 or related industries or other industrial or municipal waste.

25 “[3] (4) As used in ORS 468.155 to 468.190, ‘pollution control facility’ or ‘facility’ does not in-  
26 clude:

27 “(a) Air conditioners;

28 “(b) Septic tanks or other facilities for human waste;

29 “(c) Property installed, constructed or used for moving sewage to the collecting facilities of a  
30 public or quasi-public sewerage system;

31 “(d) Any distinct portion of a pollution control facility that makes an insignificant contribution  
32 to the principal or sole purpose of the facility including the following specific items:

33 “(A) Office buildings and furnishings;

34 “(B) Parking lots and road improvements;

35 “(C) Landscaping;

36 “(D) External lighting;

37 “(E) Company or related signs; and

38 “(F) Automobiles;

39 “(e) Replacement or reconstruction of all or a part of any facility for which a pollution control  
40 facility certificate has previously been issued under ORS 468.170, except:

41 “(A) If the cost to replace or reconstruct the facility is greater than the like-for-like replacement  
42 cost of the original facility due to a requirement imposed by the department, the federal Environ-  
43 mental Protection Agency or a regional air pollution authority, then the facility may be eligible for  
44 tax credit certification up to an amount equal to the difference between the cost of the new facility  
45 and the like-for-like replacement cost of the original facility; or

1 “(B) If a facility is replaced or reconstructed before the end of its useful life then the facility  
2 may be eligible for the remainder of the tax credit certified to the original facility;

3 “(f) Asbestos abatement; or

4 “(g) Property installed, constructed or used for cleanup of emergency spills or unauthorized re-  
5 leases, as defined by the commission.

6 “**SECTION 6.** ORS 468.165 is amended to read:

7 “468.165. (1) Any person may apply to the Environmental Quality Commission for certification  
8 under ORS 468.170 of a pollution control facility or portion thereof erected, constructed or installed  
9 by the person in Oregon if:

10 “(a) The air or water pollution control facility was erected, constructed or installed on or after  
11 January 1, 1967.

12 “(b) The noise pollution control facility was erected, constructed or installed on or after January  
13 1, 1977.

14 “(c) The solid waste facility was under construction on or after January 1, 1973, the hazardous  
15 waste or used oil facility was under construction on or after October 3, 1979, and if:

16 “(A) The facility’s principal or sole purpose conforms to the requirements of ORS 468.155 (1) and  
17 (2);

18 “(B) The facility will utilize material that would otherwise be solid waste as defined in ORS  
19 459.005, hazardous waste as defined in ORS 466.005 or used oil as defined in ORS 459A.555 by me-  
20 chanical process or chemical process or through the production, processing including presegrega-  
21 tion, or use of, materials which have useful chemical or physical properties and which may be  
22 used for the same or other purposes, or materials which may be used in the same kind of application  
23 as its prior use without change in identity;

24 “(C) The end product of the utilization is an item of real economic value;

25 “(D) The end product of the utilization, other than a usable source of power, is competitive with  
26 an end product produced in another state; and

27 “(E) The Oregon law regulating solid waste imposes standards at least substantially equivalent  
28 to the federal law.

29 “(d) The hazardous waste control facility was erected, constructed or installed on or after Jan-  
30 uary 1, 1984, and if:

31 “(A) The facility’s principal or sole purpose conforms to the requirements of ORS 468.155 (1) and  
32 (2); and

33 “(B) The facility is designed to treat, substantially reduce or eliminate hazardous waste as de-  
34 fined in ORS 466.005.

35 “(e) **The biofuel production facility was erected, constructed or installed on or after**  
36 **January 1, 2006, and the facility’s purpose conforms to the requirements of ORS 468.155 (1)(a)**  
37 **and (3).**

38 “(2) The application shall be made in writing in a form prescribed by the Department of Envi-  
39 ronmental Quality and shall contain information on the actual cost of the facility, a description of  
40 the materials incorporated therein, all machinery and equipment made a part thereof, the existing  
41 or proposed operational procedure thereof, and a statement of the purpose of prevention, control or  
42 reduction of air, water or noise pollution or solid or hazardous waste or recycling or appropriate  
43 disposal of used oil served or to be served by the facility and the portion of the actual cost properly  
44 allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazard-  
45 ous waste or to recycling or appropriately disposing of used oil.

1 “(3) The Director of the Department of Environmental Quality may require any further infor-  
2 mation the director considers necessary before a certificate is issued.

3 “(4) The application shall be accompanied by a fee established under subsection (5) of this sec-  
4 tion. The fee may be refunded if the application for certification is rejected.

5 “(5) By rule and after hearing the commission may adopt a schedule of reasonable fees which  
6 the department may require of applicants for certificates issued under ORS 468.167 and 468.170.  
7 Before the adoption or revision of any such fees the commission shall estimate the total cost of the  
8 program to the department. The fees shall be based on the anticipated cost of filing, investigating,  
9 granting and rejecting the applications and shall be designed not to exceed the total cost estimated  
10 by the commission. Any excess fees shall be held by the department and shall be used by the com-  
11 mission to reduce any future fee increases. The fee may vary according to the size and complexity  
12 of the facility. The fees may not be considered by the commission as part of the cost of the facility  
13 to be certified.

14 “(6) The application shall be submitted after construction of the facility is substantially com-  
15 pleted and the facility is placed in service and within one year after construction of the facility is  
16 substantially completed. Failure to file a timely application shall make the facility ineligible for tax  
17 credit certification. An application may not be considered filed until it is complete and ready for  
18 processing. The commission may grant an extension of time to file an application for circumstances  
19 beyond the control of the applicant that would make a timely filing unreasonable. [*However, the pe-  
20 riod for filing an application may not be extended to a date beyond December 31, 2008.*]

21 “**SECTION 7.** ORS 468.170 is amended to read:

22 “468.170. (1) The Environmental Quality Commission shall act on an application for certification  
23 before the 120th day after the filing of the application under ORS 468.165. The action of the com-  
24 mission shall include certification of the actual cost of the facility and the portion of the actual cost  
25 properly allocable to the prevention, control or reduction of air, water or noise pollution or solid  
26 or hazardous waste or to recycling or appropriately disposing of used oil. The actual cost or portion  
27 of the actual cost certified may not exceed the taxpayer’s own cash investment in the facility or  
28 portion of the facility. Each certificate shall bear a separate serial number for each such facility.

29 “(2) If the commission rejects an application for certification, or certifies a lesser actual cost  
30 of the facility or a lesser portion of the actual cost properly allocable to the prevention, control or  
31 reduction of air, water or noise pollution or solid or hazardous waste or to recycling or appropri-  
32 ately disposing of used oil than was claimed in the application for certification, the commission shall  
33 cause written notice of its action, and a concise statement of the findings and reasons therefor, to  
34 be sent by registered or certified mail to the applicant before the 120th day after the filing of the  
35 application.

36 “(3) If the application is rejected for any reason, including the information furnished by the ap-  
37 plicant as to the cost of the facility, or if the applicant is dissatisfied with the certification of actual  
38 cost or portion of the actual cost properly allocable to prevention, control or reduction of air, water  
39 or noise pollution or solid or hazardous waste or to recycling or appropriately disposing of used oil,  
40 the applicant may appeal from the rejection as provided in ORS 468.110. The rejection or the cer-  
41 tification is final and conclusive on all parties unless the applicant takes an appeal therefrom as  
42 provided in ORS 468.110 before the 30th day after notice was mailed by the commission.

43 “(4)(a) The commission shall certify a pollution control, solid waste, hazardous waste or used  
44 oil facility or portion thereof, for which an application has been made under ORS 468.165, if the  
45 commission finds that the facility:

1       “(A) Was erected, constructed or installed in accordance with the requirements of ORS 468.165  
2 (1);

3       “(B) Is designed for, and is being operated or will operate in accordance with the requirements  
4 of ORS 468.155; and

5       “(C) Is necessary to satisfy the intents and purposes of ORS 454.010 to 454.040, 454.205 to  
6 454.255, 454.505 to 454.535, 454.605 to 454.755, ORS chapters 459, 459A, 466 and 467 and ORS chap-  
7 ters 468, 468A and 468B and rules thereunder.

8       “(b) No determination of the proportion of the actual cost of the facility to be certified shall be  
9 made until receipt of the application.

10       “(c) If one or more facilities constitute an operational unit, the commission may certify such  
11 facilities under one certificate.

12       “(d) A certificate under this section is effective for purposes of tax relief in accordance with  
13 ORS 307.405 and 315.304 if, *on or before December 31, 2007,*] erection, construction or installation  
14 of the facility is completed, the facility is placed in service and the application for certification is  
15 filed with the commission under ORS 468.165.

16       “(5) A person receiving a certificate under this section may take tax relief only under ORS  
17 315.304, depending upon the tax status of the person’s trade or business except that:

18       “(a) A corporation organized under ORS chapter 65 or any subsequent transferee of the corpo-  
19 ration shall take tax relief only under ORS 307.405; and

20       “(b)(A) A corporation organized under ORS chapter 62 or any predecessor to ORS chapter 62  
21 relating to the incorporation of cooperative associations or the subsequent transferee of the corpo-  
22 ration may make an irrevocable election to take the tax relief under either ORS 315.304 or 307.405.  
23 The corporation shall make the election at the time of applying for the certificate, except that a  
24 corporation receiving a certificate prior to December 31, 1995, may make the election at any time  
25 on or before December 31, 1995. If a corporation elects on or before December 31, 1995, to take the  
26 tax relief under ORS 315.304, any income taxes, penalties or interest otherwise payable by the cor-  
27 poration for improperly taking the tax relief under ORS 315.304 in a taxable year prior to making  
28 the election shall be waived.

29       “(B) In the case of a corporation making the election under subparagraph (A) of this paragraph,  
30 the election applies to:

31       “(i) All existing or future facilities that are certified under this section, if the corporation  
32 claimed a credit under ORS 315.304 for a tax year beginning prior to December 31, 1995; or

33       “(ii) All future facilities that are certified under this section, if the corporation did not claim a  
34 credit under ORS 315.304 for a tax year beginning prior to December 31, 1995.

35       “(6) If the person receiving the certificate is a partnership, each partner shall be entitled to take  
36 tax credit relief as provided in ORS 315.304, based on that partner’s pro rata share of the certified  
37 cost of the facility.

38       “(7) Certification under this section of a pollution control facility qualifying under ORS 468.165  
39 (1) shall be granted for a period of 10 consecutive years which 10-year period shall begin with the  
40 tax year of the person in which the facility is certified under this section, except that if ad valorem  
41 tax relief is utilized by a corporation organized under ORS chapter 62 or 65 the facility shall be  
42 exempt from ad valorem taxation for a period of 20 consecutive years.

43       “(8) Portions of a facility qualifying under ORS 468.165 (1)(c) may be certified separately under  
44 this section if ownership of the portions is in more than one person. Certification of such portions  
45 of a facility shall include certification of the actual cost of the portion of the facility to the person

1 receiving the certification. The actual cost certified for all portions of a facility separately certified  
2 under this subsection may not exceed the total cost of the facility that would have been certified  
3 under one certificate. The provisions of ORS 315.304 (8) apply to any sale, exchange or other dis-  
4 position of a certified portion of a facility.

5 “(9) A certificate issued under this section shall state the applicable percentage of the certified  
6 cost of the facility, as determined under ORS 468.173.

7 “(10) *[If the construction or installation of a facility is commenced after December 31, 2005, the*  
8 *facility may be certified only if the facility or applicant is described in ORS 468.173 (3).]* A facility  
9 *[described in ORS 468.173 (2)]* for which construction or installation is commenced after December  
10 31, [2005] **2016**, may not be certified under this section.

11 “**SECTION 8.** ORS 468.173 is amended to read:

12 “468.173. (1) For purposes of ORS 315.304, the applicable percentage of the certified cost of a  
13 facility shall be *[one of the following:]* **35 percent, except as provided in subsection (2) of this**  
14 **section.**

15 “*[(1) If the facility is certified under ORS 468.155 to 468.190 (1999 Edition) or if construction or*  
16 *installation of the facility is commenced prior to January 1, 2001, and completed prior to January 1,*  
17 *2004, 50 percent.]*

18 “*[(2) Except as provided in subsection (1) or (3) of this section, if the facility is certified pursuant*  
19 *to application for certification filed on or after January 1, 2002, and:]*

20 “*[(a) Construction or installation of the facility is commenced on or after January 1, 2001, and on*  
21 *or before December 31, 2003, 25 percent; or]*

22 “*[(b) Construction or installation of the facility is commenced after December 31, 2003, and on or*  
23 *before December 31, 2005, 15 percent.]*

24 “*[(3) If certified pursuant to application for certification filed on or after January 1, 2002, 35 per-*  
25 *cent if:]*

26 “**(2) For purposes of ORS 315.304, the applicable percentage of the certified cost of a fa-**  
27 **ility shall be 50 percent if:**

28 “(a) The applicant is certified under International Organization for Standardization standard ISO  
29 14001;

30 “(b) A Green Permit that applies to the facility has been issued under ORS 468.501 to 468.521;

31 “(c) The facility is a nonpoint source or is regulated as a confined animal feeding operation  
32 under ORS 468B.200 to 468B.230;

33 “(d) The facility is used for material recovery or recycling, as those terms are defined in ORS  
34 459.005;

35 “(e) The facility is used in an agricultural or forest products operation and is used for energy  
36 recovery, as defined in ORS 459.005;

37 “(f) The certified cost of the facility does not exceed \$200,000;

38 “(g) Construction or installation of the facility is entirely voluntary and no portion of it is re-  
39 quired in order to comply with a federal law administered by the United States Environmental  
40 Protection Agency, a state law administered by the Department of Environmental Quality or a law  
41 administered by a regional air pollution authority;

42 “(h) The facility is, at the time of certification, located within an enterprise zone established  
43 under ORS 285C.050 to 285C.250 or within an area that has been designated a distressed area, as  
44 defined in ORS 285A.010, by the Economic and Community Development Department; *[or]*

45 “**(i) The facility is a facility described in ORS 468.155 (3); or**





1 tablished under 42 U.S.C. 7545, as amended and in effect on the effective date of this 2005  
2 Act, and regulations adopted thereunder.

3 “(c) ‘Biomass’ means any organic matter that is available on a renewable or recurring  
4 basis, including agricultural crops and trees, wood and wood wastes and residues, plants  
5 (including aquatic plants), grasses, residues, fibers, animal wastes, municipal wastes and  
6 other waste materials.

7 “(d) ‘Ethanol’ has the meaning given that term in ORS 646.905.

8 “(2) An agricultural producer shall be allowed a credit against the taxes that would oth-  
9 erwise be due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter  
10 317 or 318, for the production in this state of plant or animal matter that is used to produce  
11 biodiesel or ethanol in this state.

12 “(3) The amount of the credit shall equal:

13 “(a) Five cents per gallon of biodiesel produced in this state from plant or animal matter  
14 produced in this state;

15 “(b) Four cents per gallon of ethanol produced in this state from plant or animal matter  
16 produced in this state; and

17 “(c) Ten dollars per green ton of forest or rangeland vegetative biomass that is delivered  
18 to a purchaser to produce, or is used to produce, electric energy, direct application heat,  
19 transportation fuel or a substitute for a petroleum-based product.

20 “(4)(a) Each biodiesel producer or ethanol producer shall report to an agricultural pro-  
21 ducer the quantity, in gallons, of biodiesel or ethanol produced from plant or animal matter  
22 sold to the producer by the agricultural producer. The report shall be made in writing within  
23 30 days of the date of sale of the plant or animal matter to the biodiesel or ethanol producer.

24 “(b) Each producer that uses biomass to produce electric energy, direct application heat,  
25 transportation fuel or a substitute for a petroleum-based product shall maintain records of  
26 the quantity of biomass obtained and the identity of the agricultural producer from whom  
27 the biomass was obtained. The producer shall maintain the records for the length of time  
28 prescribed by the Department of Revenue.

29 “(5) Except as provided in subsection (7) of this section, the amount of the credit may  
30 not exceed the tax liability of the taxpayer.

31 “(6) The credit shall be claimed on a form prescribed by the department that contains  
32 the information required by the department.

33 “(7) Any tax credit otherwise allowable under this section that is not used by the tax-  
34 payer in a particular tax year may be carried forward and offset against the taxpayer’s tax  
35 liability for the next succeeding tax year. Any credit remaining unused in the next succeed-  
36 ing tax year may be carried forward and used in the second succeeding tax year, and likewise  
37 any credit not used in that second succeeding tax year may be carried forward and used in  
38 the third succeeding tax year, and any credit not used in that third succeeding tax year may  
39 be carried forward and used in the fourth succeeding tax year, but may not be carried for-  
40 ward for any tax year thereafter.

41 “(8) In the case of a credit allowed under this section:

42 “(a) A nonresident shall be allowed the credit under this section in the proportion pro-  
43 vided in ORS 316.117.

44 “(b) If a change in the status of the taxpayer from resident to nonresident or from non-  
45 resident to resident occurs, the credit allowed by this section shall be determined in a man-

1 **ner consistent with ORS 316.117.**

2 **“(c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,**  
3 **or if the department terminates the taxpayer’s taxable year under ORS 314.440, the credit**  
4 **allowed under this section shall be prorated or computed in a manner consistent with ORS**  
5 **314.085.**

6 **“NOTE:** Section 13 was deleted by amendment. Subsequent sections were not renumbered.

7 **“SECTION 14.** ORS 314.752 is amended to read:

8 **“314.752. (1)** Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to  
9 a C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation.  
10 The business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or  
11 are allowable to the shareholders of the S corporation.

12 **“(2)** In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on  
13 income of the shareholder of an S corporation, there shall be taken into account the shareholder’s  
14 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but  
15 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-  
16 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the  
17 manner prescribed under section 1377(a) of the Internal Revenue Code.

18 **“(3)** The character of any item included in a shareholder’s pro rata share under subsection (2)  
19 of this section shall be determined as if such item were realized directly from the source from which  
20 realized by the corporation, or incurred in the same manner as incurred by the corporation.

21 **“(4)** If the shareholder is a nonresident and there is a requirement applicable for the business  
22 tax credit that in the case of a nonresident that the credit be allowed in the proportion provided in  
23 ORS 316.117, then that provision shall apply to the nonresident shareholder.

24 **“(5)** As used in this section, ‘business tax credit’ means a tax credit granted to personal income  
25 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive  
26 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-  
27 section as a business tax credit or is designated as a business tax credit by law or by the Depart-  
28 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309  
29 (tribal taxes on reservation enterprise zones), ORS 315.104 (forestation and reforestation), ORS  
30 315.134 (fish habitat improvement), ORS 315.138 (fish screening, by-pass devices, fishways), ORS  
31 315.156 (crop gleaning), ORS 315.164 and 315.169 (farmworker housing), ORS 315.204 (dependent care  
32 assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS  
33 315.234 (child development program contributions), ORS 315.254 (youth apprenticeship sponsorship),  
34 ORS 315.304 (pollution control facility), ORS 315.324 (plastics recycling), ORS 315.354 and ORS  
35 469.207 (energy conservation facilities), ORS 315.504 (Oregon Capital Corporation), ORS 315.507  
36 (electronic commerce), ORS 315.511 (advanced telecommunications facilities), ORS 315.604 (bone  
37 marrow transplant expenses) and ORS 317.115 (fueling stations necessary to operate an alternative  
38 fuel vehicle) **and section 12 of this 2005 Act (production for biodiesel and ethanol, biomass**  
39 **usage).**

40 **“SECTION 15.** ORS 318.031 is amended to read:

41 **“318.031.** It being the intention of the Legislative Assembly that this chapter and the Corpo-  
42 ration Excise Tax Law of 1929 shall be administered as uniformly as possible (allowance being made  
43 for the difference in imposition of the taxes and the operative date of this chapter), ORS 305.140 and  
44 305.150, ORS chapter 314 and the following sections are incorporated into and made a part of this  
45 chapter: ORS 315.104, 315.134, 315.156, 315.204, 315.208, 315.213, 315.234, 315.254, 315.304, 315.504,

1 315.511 and 315.604 and section 12 of this 2005 Act (all only to the extent applicable [for] to a  
2 corporation) and ORS 285C.309, 315.507, 317.010, 317.013, 317.018 to 317.022, 317.030, 317.035, 317.038,  
3 317.080, 317.124 to 317.131, 317.152 to 317.154, 317.259 to 317.303, 317.310 to 317.386, 317.476 to  
4 317.485, 317.488, 317.510 to 317.635 and 317.705 to 317.725.

5 **“SECTION 16. Section 12 of this 2005 Act and the amendments to ORS 314.752 and 318.031**  
6 **by sections 14 and 15 of this 2005 Act apply to tax years beginning on or after January 1, 2006.**

7  
8 **“CLEAN EMISSION SCHOOL BUSES**

9  
10 **“SECTION 17. (1) There is created within the State Treasury, separate and distinct from**  
11 **the General Fund, the Clean School Bus Grant Fund. Interest earned by the Clean School**  
12 **Bus Grant Fund shall be credited to the fund. Moneys in the fund are continuously appro-**  
13 **propriated to the Department of Education for the purpose of making grants to school districts**  
14 **under section 18 of this 2005 Act.**

15 **“(2) Any federal funds or private donations received for the purpose of making the grants**  
16 **described in section 18 of this 2005 Act shall be deposited in the fund.**

17 **“SECTION 18. (1) The Department of Education shall award annual grants to school dis-**  
18 **tricts from the Clean School Bus Grant Fund for any of the following purposes and with the**  
19 **following limitations:**

20 **“(a) To assist school districts in replacing diesel fueled school buses manufactured before**  
21 **1994. A grant made under this paragraph may not exceed \$10,000 per replaced bus.**

22 **“(b) To retrofit existing school buses manufactured after 1993 with diesel exhaust after-**  
23 **treatment devices that have been verified effective in meeting industry standards by inde-**  
24 **pendent test laboratories. As a condition to receipt of grant moneys under this paragraph,**  
25 **a school district must prioritize the installation of these devices in accordance with bus age,**  
26 **so that older buses are retrofitted before newer buses are retrofitted.**

27 **“(c) To help school districts meet federal grant matching requirements to perform**  
28 **retrofits of school buses. A grant made under this paragraph may not exceed \$10,000 per**  
29 **school district per year.**

30 **“(d) To provide funding to school districts for pilot projects utilizing biodiesel fuel in**  
31 **school bus applications.**

32 **“(2) For purposes of the State School Fund distribution, the State Board of Education**  
33 **shall consider expenditures by a school district made for the purposes described in subsection**  
34 **(1) of this section to be approved transportation costs.**

35 **“(3) The State Board of Education may adopt any rules necessary to administer this**  
36 **section.**

37 **“SECTION 19. Prior to February 1, 2009, the Department of Education shall report to the**  
38 **Seventy-fifth Legislative Assembly on:**

39 **“(1) The extent to which school buses operated in this state and manufactured before**  
40 **2004 have been retrofitted with diesel exhaust after-treatment devices or retired; and**

41 **“(2) The results of any pilot projects funded under section 18 of this 2005 Act utilizing**  
42 **biodiesel fuel in school bus applications.**

43 **“SECTION 20. Sections 17 to 19 of this 2005 Act are repealed on June 30, 2014.**

44 **“SECTION 21. On July 1, 2014, the Department of Education shall transfer all moneys in**  
45 **the Clean School Bus Grant Fund established in section 17 of this 2005 Act to the Department**

1 of Agriculture Service Fund established in ORS 561.144.

2  
3 **“BIOFUEL OR EMISSIONS RESEARCH AND DEVELOPMENT**

4  
5 **“SECTION 22.** Section 23 of this 2005 Act is added to and made a part of ORS chapter 315.

6 **“SECTION 23.** (1) As used in this section, ‘qualifying equipment’ means:

7 **“(a) Any system, mechanism or series of mechanisms that is used in the production of**  
8 **ethanol or biodiesel;**

9 **“(b) Any ultra-low sulfur diesel and particulate trap; or**

10 **“(c) Any equipment designed to be used on buses with a seating capacity of at least 16**  
11 **passengers and designed to reduce bus tailpipe emissions.**

12 **“(2) A taxpayer shall be allowed a credit against the taxes that are otherwise due under**  
13 **ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, for costs**  
14 **incurred in conducting research and development activities for developing qualifying equip-**  
15 **ment that has commercial application.**

16 **“(3)(a) In order to claim a credit under this section, the taxpayer shall first obtain cer-**  
17 **tification from the Department of Environmental Quality under this subsection. The tax-**  
18 **payer shall apply for certification on a form prescribed by the Department of Environmental**  
19 **Quality, setting forth the taxpayer’s estimate of costs incurred or to be incurred during the**  
20 **tax year for which the credit is to be claimed and that are described in subsection (2) of this**  
21 **section, and any other information required by the Department of Environmental Quality.**

22 **“(b) The Department of Environmental Quality shall issue a written certification to the**  
23 **taxpayer, setting forth the costs being certified as eligible for a credit under this section.**  
24 **The Department of Environmental Quality may not certify a total for all taxpayers of more**  
25 **than \$2 million in costs as eligible for credit under this section. The Department of Envi-**  
26 **ronmental Quality shall notify the Department of Revenue of the taxpayers and amounts**  
27 **certified.**

28 **“(4) The amount of the credit shall equal five percent of the amount certified under**  
29 **subsection (3) of this section or the amount actually paid or incurred by the taxpayer during**  
30 **the tax year for activities described in subsection (2) of this section, whichever is less.**

31 **“(5) The amount of credit allowed in any one tax year may not exceed the tax liability**  
32 **of the taxpayer.**

33 **“(6) Any tax credit otherwise allowable under this section that is not used by the tax-**  
34 **payer in a particular year may be carried forward and offset against the taxpayer’s tax li-**  
35 **ability for the next succeeding tax year. Any credit remaining unused in the next succeeding**  
36 **tax year may be carried forward and used in the second succeeding tax year, and likewise**  
37 **any credit not used in that second succeeding tax year may be carried forward and used in**  
38 **the third succeeding tax year, and any credit not used in that third succeeding tax year may**  
39 **be carried forward and used in the fourth succeeding tax year, and any credit not used in**  
40 **that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax**  
41 **year, but may not be carried forward for any tax year thereafter.**

42 **“(7) In the case of a credit allowed under this section for purposes of ORS chapter 316:**

43 **“(a) A nonresident shall be allowed the credit under this section in the proportion pro-**  
44 **vided in ORS 316.117.**

45 **“(b) If a change in the status of a taxpayer from resident to nonresident or from non-**

1 resident to resident occurs, the credit allowed by this section shall be determined in a man-  
2 ner consistent with ORS 316.117.

3 “(c) A husband and wife who file separate returns for a taxable year may each claim a  
4 share of the tax credit that would have been allowed on a joint return in proportion to the  
5 contribution of each.

6 “(d) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or  
7 if the Department of Revenue terminates the taxpayer’s taxable year under ORS 314.440, the  
8 credit allowed under this section shall be prorated or computed in a manner consistent with  
9 ORS 314.085.

10 “(8) A taxpayer may not be allowed a credit under ORS 317.152 or 317.154 for the same  
11 research and development costs that serve as the basis for the credit allowed under this  
12 section.

13 “**SECTION 24.** Section 23 of this 2005 Act applies to tax years beginning on or after Jan-  
14 uary 1, 2006, and before January 1, 2012.

15 “**SECTION 25.** ORS 314.752, as amended by section 14 of this 2005 Act, is amended to read:

16 “314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to  
17 a C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation.  
18 The business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or  
19 are allowable to the shareholders of the S corporation.

20 “(2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on  
21 income of the shareholder of an S corporation, there shall be taken into account the shareholder’s  
22 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but  
23 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-  
24 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the  
25 manner prescribed under section 1377(a) of the Internal Revenue Code.

26 “(3) The character of any item included in a shareholder’s pro rata share under subsection (2)  
27 of this section shall be determined as if such item were realized directly from the source from which  
28 realized by the corporation, or incurred in the same manner as incurred by the corporation.

29 “(4) If the shareholder is a nonresident and there is a requirement applicable for the business  
30 tax credit that in the case of a nonresident that the credit be allowed in the proportion provided in  
31 ORS 316.117, then that provision shall apply to the nonresident shareholder.

32 “(5) As used in this section, ‘business tax credit’ means a tax credit granted to personal income  
33 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive  
34 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-  
35 section as a business tax credit or is designated as a business tax credit by law or by the Depart-  
36 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309  
37 (tribal taxes on reservation enterprise zones), ORS 315.104 (forestation and reforestation), ORS  
38 315.134 (fish habitat improvement), ORS 315.138 (fish screening, by-pass devices, fishways), ORS  
39 315.156 (crop gleaning), ORS 315.164 and 315.169 (farmworker housing), ORS 315.204 (dependent care  
40 assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS  
41 315.234 (child development program contributions), ORS 315.254 (youth apprenticeship sponsorship),  
42 ORS 315.304 (pollution control facility), ORS 315.324 (plastics recycling), ORS 315.354 and ORS  
43 469.207 (energy conservation facilities), ORS 315.504 (Oregon Capital Corporation), ORS 315.507  
44 (electronic commerce), ORS 315.511 (advanced telecommunications facilities), ORS 315.604 (bone  
45 marrow transplant expenses) and ORS 317.115 (fueling stations necessary to operate an alternative

1 fuel vehicle) and section 12 of this 2005 Act (production for biodiesel and ethanol, biomass usage)  
2 **and section 23 of this 2005 Act (qualifying equipment research and development).**

3 **“SECTION 26.** ORS 318.031, as amended by section 15 of this 2005 Act, is amended to read:

4 “318.031. It being the intention of the Legislative Assembly that this chapter and the Corpo-  
5 ration Excise Tax Law of 1929 shall be administered as uniformly as possible (allowance being made  
6 for the difference in imposition of the taxes and the operative date of this chapter), ORS 305.140 and  
7 305.150, ORS chapter 314 and the following sections are incorporated into and made a part of this  
8 chapter: ORS 315.104, 315.134, 315.156, 315.204, 315.208, 315.213, 315.234, 315.254, 315.304, 315.504,  
9 315.511 and 315.604 and section 12 of this 2005 Act (all only to the extent applicable to a corpo-  
10 ration) and ORS 285C.309, 315.507, 317.010, 317.013, 317.018 to 317.022, 317.030, 317.035, 317.038,  
11 317.080, 317.124 to 317.131, 317.152 to 317.154, 317.259 to 317.303, 317.310 to 317.386, 317.476 to  
12 317.485, 317.488, 317.510 to 317.635 and 317.705 to 317.725 **and section 23 of this 2005 Act.**

13  
14 **“GASOLINE ADDITIVE RESTRICTIONS**

15  
16 **“SECTION 27.** ORS 646.910 is amended to read:

17 “646.910. [No] (1) **A** wholesale or retail dealer may **not** sell or offer to sell any gasoline blended  
18 or mixed with:

19 **“(a) [Alcohol] Ethanol** unless the blend or mixture meets the specifications or registration re-  
20 quirements established by the United States Environmental Protection Agency pursuant to section  
21 211 of the Clean Air Act, 42 U.S.C. section 7545 and 40 C.F.R. Part 79[.];

22 **“(b) Methyl tertiary butyl ether in concentrations that exceed five-tenths of one percent**  
23 **by volume; or**

24 **“(c) A total of all of the following oxygenates that exceeds one-tenth of one percent, by**  
25 **weight, of:**

26 **“(A) Diisopropylether.**

27 **“(B) Ethyl tert-butylether.**

28 **“(C) Iso-butanol.**

29 **“(D) Iso-propanol.**

30 **“(E) Methanol.**

31 **“(F) N-butanol.**

32 **“(G) N-propanol.**

33 **“(H) Sec-butanol.**

34 **“(I) Tert-amyl methyl ether.**

35 **“(J) Tert-butanol.**

36 **“(K) Tert-pentanol or tert-amyl alcohol.**

37 **“(2) Nothing in this section shall prohibit transshipment through this state, or storage**  
38 **incident to the transshipment, of gasoline that contains methyl tertiary butyl ether in con-**  
39 **centrations that exceed five-tenths of one percent by volume or any of the oxygenates listed**  
40 **in subsection (1)(c) of this section, provided:**

41 **“(a) The gasoline is used or disposed of outside this state; and**

42 **“(b) The gasoline is segregated from gasoline intended for use within this state.**

43 **“SECTION 28.** The amendments to ORS 646.910 by section 27 of this 2005 Act become  
44 **operative November 1, 2007.**

1 "ENERGY FACILITY SITING REQUIREMENTS

2  
3 "SECTION 29. ORS 469.320 is amended to read:

4 "469.320. (1) Except as provided in subsections (2) and (5) of this section, no facility shall be  
5 constructed or expanded unless a site certificate has been issued for the site thereof in the manner  
6 provided in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992. No facility shall be  
7 constructed or operated except in conformity with the requirements of ORS 469.300 to 469.563,  
8 469.590 to 469.619, 469.930 and 469.992.

9 "(2) [No] A site certificate [shall be] **is not** required for:

10 "(a) An energy facility for which no site certificate has been issued that, on August 2, 1993, had  
11 operable electric generating equipment for a modification that uses the same fuel type and increases  
12 electric generating capacity, if:

13 "(A) The site is not enlarged; and

14 "(B) The ability of the energy facility to use fuel for electricity production under peak steady  
15 state operating conditions is not more than 200 million Btu per hour greater than it was on August  
16 2, 1993, or the energy facility expansion is called for in the short-term plan of action of an energy  
17 resource plan that has been acknowledged by the Public Utility Commission of Oregon.

18 "(b) Construction or expansion of any interstate natural gas pipeline or associated underground  
19 natural gas storage facility authorized by and subject to the continuing regulation of the Federal  
20 Energy Regulatory Commission or successor agency.

21 "(c) An energy facility, except coal and nuclear power plants, if the energy facility:

22 "(A) Sequentially produces electrical energy and useful thermal energy from the same fuel  
23 source; and

24 "(B) Under normal operating conditions, has a useful thermal energy output of no less than 33  
25 percent of the total energy output or the fuel chargeable to power heat rate value is not greater  
26 than 6,000 Btu per kilowatt hour.

27 "(d) Temporary storage, at the site of a nuclear-fueled thermal power plant for which a site  
28 certificate has been issued by the State of Oregon, of radioactive waste from the plant.

29 "(e) An energy facility as defined in ORS 469.300 (11)(a)(G), if the plant also produces a sec-  
30 ondary fuel used on site for the production of heat or electricity, if the output of the primary fuel  
31 is less than six billion Btu of heat a day.

32 "(f) An energy facility as defined in ORS 469.300 (11)(a)(G), if the facility:

33 "(A) **Exclusively** uses [*biomass exclusively from*] grain, whey [*or*], potatoes, **oil seeds, waste**  
34 **vegetable oil or cellulosic biomass** as the source of material for conversion to a liquid fuel, **the**  
35 **production of electric energy, the generation of heat, the creation of transportation fuels or**  
36 **the creation of substitutes for petroleum-based products;**

37 "(B) Has received local land use approval under the applicable acknowledged comprehensive  
38 plan and land use regulations of the affected local government and the facility complies with any  
39 statewide planning goals or rules of the Land Conservation and Development Commission that are  
40 directly applicable to the facility;

41 "(C) Requires no new electric transmission lines or gas or petroleum product pipelines that  
42 would require a site certificate under subsection (1) of this section; and

43 "(D) Produces synthetic fuel, at least 90 percent of which is used in an industrial or refueling  
44 facility located within one mile of the facility or is transported from the facility by rail or barge.

45 "(g) A temporary energy generating facility, if the facility complies with all applicable carbon



1 dioxide emissions standards adopted by the Energy Facility Siting Council or enacted by statute and  
2 the applicant agrees to provide funds to a qualified organization in an amount determined by the  
3 council to be sufficient to produce any required reductions in carbon dioxide as specified in ORS  
4 469.501. To support the council's finding that the facility complies with all applicable carbon dioxide  
5 emissions standards, the applicant shall provide proof acceptable to the council that shows the  
6 contracted nominal electric generating capacity of the facility and the contracted heat rate in  
7 higher heating value. The applicant shall pay the funds to the qualified organization before com-  
8 mencing construction on the temporary facility. The amount of the carbon dioxide offset funds for  
9 a temporary facility shall be subject to adjustment as provided in subsection (7)(c) of this section.

10 “(h) A standby generation facility, if the facility complies with all of the following:

11 “(A) The facility has received local land use approval under the applicable acknowledged com-  
12 prehensive plan and land use regulations of the affected local government and the facility complies  
13 with all statewide planning goals and applicable rules of the Land Conservation and Development  
14 Commission;

15 “(B) The standby generators have been approved by the Department of Environmental Quality  
16 as having complied with all applicable air and water quality requirements. For an applicant that  
17 proposes to provide the physical facilities for the installation of standby generators, the requirement  
18 of this subparagraph may be met by agreeing to require such a term in the lease contract for the  
19 facility; and

20 “(C) The standby generators are electrically incapable of being interconnected to the trans-  
21 mission grid. For an applicant that proposes to provide the physical facilities for the installation of  
22 standby generators, the requirement of this subparagraph may be met by agreeing to require such  
23 a term in the lease contract for the facility.

24 “(3) The Energy Facility Siting Council may review and, if necessary, revise the fuel chargeable  
25 to power heat rate value set forth in subsection (2)(c)(B) of this section. In making its determination,  
26 the council shall ensure that the fuel chargeable to power heat rate value for facilities set forth in  
27 subsection (2)(c)(B) of this section remains significantly lower than the fuel chargeable to power  
28 heat rate value for the best available, commercially viable thermal power plant technology at the  
29 time of the revision.

30 “(4) Any person who proposes to construct or enlarge an energy facility and who claims an ex-  
31 emption under subsection (2)(a), (c), (f) or (h) of this section from the requirement to obtain a site  
32 certificate shall request the Energy Facility Siting Council to determine whether the proposed fa-  
33 cility qualifies for the claimed exemption. The council shall make its determination within 60 days  
34 after the request for exemption is filed. An appeal from the council's determination on a request for  
35 exemption shall be made under ORS 469.403, except that the scope of review by the Supreme Court  
36 shall be the same as a review by a circuit court under ORS 183.484. The record on review by the  
37 Supreme Court shall be the record established in the council proceeding on the exemption.

38 “(5) Notwithstanding subsection (1) of this section, a separate site certificate shall not be re-  
39 quired for:

40 “(a) Transmission lines, storage facilities, pipelines or similar related or supporting facilities, if  
41 such related or supporting facilities are addressed in and are subject to a site certificate for another  
42 energy facility;

43 “(b) Expansion within the site or within the energy generation area of a facility for which a site  
44 certificate has been issued, if the existing site certificate has been amended to authorize expansion;

45 or

1 “(c) Expansion, either within the site or outside the site, of an existing council certified surface  
2 facility related to an underground gas storage reservoir, if the existing site certificate is amended  
3 to authorize expansion.

4 “(6) If the substantial loss of the steam host causes a facility exempt under subsection (2)(c) of  
5 this section to substantially fail to meet the exemption requirements under subsection (2)(c) of this  
6 section, the electric generating facility shall cease to operate one year after the substantial loss of  
7 the steam host unless an application for a site certificate has been filed in accordance with the  
8 provisions of ORS 469.300 to 469.563.

9 “(7)(a) Any person who proposes to construct or enlarge a temporary energy generating facility  
10 and who claims an exemption under subsection (2)(g) of this section from the requirement to obtain  
11 a site certificate shall request the Energy Facility Siting Council to determine whether the proposed  
12 facility qualifies for the claimed exemption. The council shall make its determination within 30 days  
13 of receiving all of the information necessary to support the determination. Such exemption shall  
14 provide that the applicant may not begin construction of the temporary energy generating facility  
15 until the facility has received the required local land use approval under the applicable acknowl-  
16 edged comprehensive plan and land use regulations of the affected local government and the facility  
17 complies with all statewide planning goals and applicable rules of the Land Conservation and De-  
18 velopment Commission. The exemption shall also require that the temporary energy generating fa-  
19 cility cease operation no later than 24 months after the date of first commercial operation or  
20 January 2, 2006, whichever is earlier. An appeal from the council’s determination on a request for  
21 exemption shall be made under ORS 469.403, except that the order may not be stayed and review  
22 by the Supreme Court is limited to the record made by the council.

23 “(b) The council may not grant an exemption for a temporary energy generating facility pursu-  
24 ant to subsection (2)(g) of this section after July 1, 2003.

25 “(c) Within 30 days of ceasing operation of a temporary energy generating facility, the applicant  
26 shall report the total actual fuel used during commercial operation of the temporary energy gener-  
27 ating facility. Based on the total actual fuel used during commercial operation, the council shall  
28 determine whether additional offset funds, as defined in ORS 469.503, and contracting and selection  
29 funds are owed to the qualified organization. If the council determines that additional offset funds  
30 are owed to the qualified organization, the applicant shall pay such amounts within 60 days of the  
31 council’s order determining the amount of additional funds.

32 “(d) Notwithstanding the provisions of paragraph (a) of this subsection that require a temporary  
33 energy generating facility granted an exemption pursuant to subsection (2)(g) of this section to cease  
34 operation within 24 months of first commercial operation, if the owner of a temporary energy gen-  
35 erating facility submits an application for a site certificate prior to the last day of the period con-  
36 stituting the exemption or January 1, 2005, whichever date is earlier, the council shall extend the  
37 period constituting the exemption and shall allow the temporary energy generating facility to con-  
38 tinue operation until the council concludes its review of the site certificate application. The council  
39 may specify a date by which the application must be completed. If the application is not completed  
40 by the date specified by the council, or is rejected by the council, the energy facility shall cease  
41 operation on the specified date. An energy facility operating pursuant to this paragraph shall cease  
42 operation if the applicant for the site certificate suspends the application.

43 “(8) As used in this section:

44 “(a) **‘Cellulosic biomass’ means forest or rangeland residue or any crop grown specifically**  
45 **for the purpose of producing cellulosic feedstock that contains lignocellulose or**

1 **hemicellulose, or any by-product of agricultural commodity production.**

2 “[(a)] (b) ‘Standby generation facility’ means an electric power generating facility, including  
3 standby generators and the physical structures necessary to install and connect standby generators,  
4 that provides temporary electric power in the event of a power outage and that is electrically in-  
5 capable of being interconnected with the transmission grid.

6 “[(b)] (c) ‘Temporary energy generating facility’ means an electric power generating facility,  
7 including a thermal power plant and a combustion turbine power plant, but not including a  
8 hydropower plant, with a nominal electric generating capacity of no more than 100 megawatts that  
9 is operated for no more than 24 months from the date of initial commercial operation.

10 “[(c)] (d) ‘Total energy output’ means the sum of useful thermal energy output and useful elec-  
11 trical energy output.

12 “[(d)] (e) ‘Useful thermal energy’ means the verifiable thermal energy used in any viable indus-  
13 trial or commercial process, heating or cooling application.

14 “(9) Notwithstanding the definition of ‘energy facility’ in ORS 469.300 (11)(a)(J), an electric  
15 power generating plant with an average electric generating capacity of less than 35 megawatts  
16 produced from wind energy at a single energy facility or within a single energy generation area may  
17 elect to obtain a site certificate in the manner provided in ORS 469.300 to 469.563, 469.590 to  
18 469.619, 469.930 and 469.992. An election to obtain a site certificate under this subsection shall be  
19 final upon submission of an application for a site certificate.

20 “**SECTION 30.** ORS 469.320, as amended by section 8, chapter 683, Oregon Laws 2001, and  
21 section 77, chapter 186, Oregon Laws 2003, is amended to read:

22 “469.320. (1) Except as provided in subsections (2) and (5) of this section, no facility shall be  
23 constructed or expanded unless a site certificate has been issued for the site thereof in the manner  
24 provided in ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992. No facility shall be  
25 constructed or operated except in conformity with the requirements of ORS 469.300 to 469.563,  
26 469.590 to 469.619, 469.930 and 469.992.

27 “(2) [No] A site certificate [shall be] **is not** required for:

28 “(a) An energy facility for which no site certificate has been issued that, on August 2, 1993, had  
29 operable electric generating equipment for a modification that uses the same fuel type and increases  
30 electric generating capacity, if:

31 “(A) The site is not enlarged; and

32 “(B) The ability of the energy facility to use fuel for electricity production under peak steady  
33 state operating conditions is not more than 200 million Btu per hour greater than it was on August  
34 2, 1993, or the energy facility expansion is called for in the short-term plan of action of an energy  
35 resource plan that has been acknowledged by the Public Utility Commission of Oregon.

36 “(b) Construction or expansion of any interstate natural gas pipeline or associated underground  
37 natural gas storage facility authorized by and subject to the continuing regulation of the Federal  
38 Energy Regulatory Commission or successor agency.

39 “(c) An energy facility, except coal and nuclear power plants, if the energy facility:

40 “(A) Sequentially produces electrical energy and useful thermal energy from the same fuel  
41 source; and

42 “(B) Under normal operating conditions, has a useful thermal energy output of no less than 33  
43 percent of the total energy output or the fuel chargeable to power heat rate value is not greater  
44 than 6,000 Btu per kilowatt hour.

45 “(d) Temporary storage, at the site of a nuclear-fueled thermal power plant for which a site

1 certificate has been issued by the State of Oregon, of radioactive waste from the plant.

2 “(e) An energy facility as defined in ORS 469.300 (11)(a)(G), if the plant also produces a sec-  
3 ondary fuel used on site for the production of heat or electricity, if the output of the primary fuel  
4 is less than six billion Btu of heat a day.

5 “(f) An energy facility as defined in ORS 469.300 (11)(a)(G), if the facility:

6 “(A) **Exclusively** uses [*biomass exclusively from*] grain, whey [*or*], potatoes, **oil seeds, waste**  
7 **vegetable oil or cellulosic biomass** as the source of material for conversion to a liquid fuel, **the**  
8 **production of electric energy, the generation of heat, the creation of transportation fuels or**  
9 **the creation of substitutes for petroleum-based products;**

10 “(B) Has received local land use approval under the applicable acknowledged comprehensive  
11 plan and land use regulations of the affected local government and the facility complies with any  
12 statewide planning goals or rules of the Land Conservation and Development Commission that are  
13 directly applicable to the facility;

14 “(C) Requires no new electric transmission lines or gas or petroleum product pipelines that  
15 would require a site certificate under subsection (1) of this section; and

16 “(D) Produces synthetic fuel, at least 90 percent of which is used in an industrial or refueling  
17 facility located within one mile of the facility or is transported from the facility by rail or barge.

18 “(g) A standby generation facility, if the facility complies with all of the following:

19 “(A) The facility has received local land use approval under the applicable acknowledged com-  
20 prehensive plan and land use regulations of the affected local government and the facility complies  
21 with all statewide planning goals and applicable rules of the Land Conservation and Development  
22 Commission;

23 “(B) The standby generators have been approved by the Department of Environmental Quality  
24 as having complied with all applicable air and water quality requirements. For an applicant that  
25 proposes to provide the physical facilities for the installation of standby generators, the requirement  
26 of this subparagraph may be met by agreeing to require such a term in the lease contract for the  
27 facility; and

28 “(C) The standby generators are electrically incapable of being interconnected to the trans-  
29 mission grid. For an applicant that proposes to provide the physical facilities for the installation of  
30 standby generators, the requirement of this subparagraph may be met by agreeing to require such  
31 a term in the lease contract for the facility.

32 “(3) The Energy Facility Siting Council may review and, if necessary, revise the fuel chargeable  
33 to power heat rate value set forth in subsection (2)(c)(B) of this section. In making its determination,  
34 the council shall ensure that the fuel chargeable to power heat rate value for facilities set forth in  
35 subsection (2)(c)(B) of this section remains significantly lower than the fuel chargeable to power  
36 heat rate value for the best available, commercially viable thermal power plant technology at the  
37 time of the revision.

38 “(4) Any person who proposes to construct or enlarge an energy facility and who claims an ex-  
39 emption under subsection (2)(a), (c), (f) or (g) of this section from the requirement to obtain a site  
40 certificate shall request the Energy Facility Siting Council to determine whether the proposed fa-  
41 cility qualifies for the claimed exemption. The council shall make its determination within 60 days  
42 after the request for exemption is filed. An appeal from the council’s determination on a request for  
43 exemption shall be made under ORS 469.403, except that the scope of review by the Supreme Court  
44 shall be the same as a review by a circuit court under ORS 183.484. The record on review by the  
45 Supreme Court shall be the record established in the council proceeding on the exemption.

1 “(5) Notwithstanding subsection (1) of this section, a separate site certificate shall not be re-  
2 quired for:

3 “(a) Transmission lines, storage facilities, pipelines or similar related or supporting facilities, if  
4 such related or supporting facilities are addressed in and are subject to a site certificate for another  
5 energy facility;

6 “(b) Expansion within the site or within the energy generation area of a facility for which a site  
7 certificate has been issued, if the existing site certificate has been amended to authorize expansion;  
8 or

9 “(c) Expansion, either within the site or outside the site, of an existing council certified surface  
10 facility related to an underground gas storage reservoir, if the existing site certificate is amended  
11 to authorize expansion.

12 “(6) If the substantial loss of the steam host causes a facility exempt under subsection (2)(c) of  
13 this section to substantially fail to meet the exemption requirements under subsection (2)(c) of this  
14 section, the electric generating facility shall cease to operate one year after the substantial loss of  
15 the steam host unless an application for a site certificate has been filed in accordance with the  
16 provisions of ORS 469.300 to 469.563.

17 “(7) As used in this section:

18 “(a) ‘Cellulosic biomass’ means forest or rangeland residue or any crop grown specifically  
19 for the purpose of producing cellulosic feedstock that contains lignocellulose or  
20 hemicellulose, or any by-product of agricultural commodity production.

21 “[a] (b) ‘Standby generation facility’ means an electric power generating facility, including  
22 standby generators and the physical structures necessary to install and connect standby generators,  
23 that provides temporary electric power in the event of a power outage and that is electrically in-  
24 capable of being interconnected with the transmission grid.

25 “[b] (c) ‘Total energy output’ means the sum of useful thermal energy output and useful elec-  
26 trical energy output.

27 “[c] (d) ‘Useful thermal energy’ means the verifiable thermal energy used in any viable indus-  
28 trial or commercial process, heating or cooling application.

29 “(8) Notwithstanding the definition of ‘energy facility’ in ORS 469.300 (11)(a)(J), an electric  
30 power generating plant with an average electric generating capacity of less than 35 megawatts  
31 produced from wind energy at a single energy facility or within a single energy generation area may  
32 elect to obtain a site certificate in the manner provided in ORS 469.300 to 469.563, 469.590 to  
33 469.619, 469.930 and 469.992. An election to obtain a site certificate under this subsection shall be  
34 final upon submission of an application for a site certificate.

35 “**SECTION 31. The amendments to ORS 469.320 by sections 29 and 30 of this 2005 Act do**  
36 **not apply to applications for site certificates filed before the effective date of this 2005 Act.**

37  
38 **“STATE GOVERNMENT USE OF BIODIESEL**

39  
40 “**SECTION 32.** ORS 283.305 is amended to read:

41 “283.305. As used in ORS 283.305 to 283.350:

42 “(1) ‘Authorized driver’ means any of the following who has a valid driver license and an ac-  
43 ceptable driving record:

44 “(a) A salaried state employee, including an agent of the state;

45 “(b) A volunteer, appointed in writing, whose written description of duties includes driving mo-

1 tor vehicles;

2 “(c) An agency client required to drive motor vehicles as part of a rehabilitation or treatment  
3 program authorized by law;

4 “(d) Any personnel of any unit of government whose use of motor vehicles is permitted by an  
5 authorized intergovernmental agreement;

6 “(e) Any student enrolled at any state institution of higher education and whose use of motor  
7 vehicles meets the requirements of ORS 283.310; and

8 “(f) An inmate of a correctional institution with specific Department of Corrections approval  
9 who is accompanied by a supervising correctional institution employee or who is performing a spe-  
10 cific work assignment driving a special purpose vehicle required for that assignment and within the  
11 visual range of a supervising correctional institution employee who is at the work assignment site  
12 or who is part of the transport caravan.

13 “(2) ‘Alternative fuel’ means **biodiesel**, natural gas, liquified petroleum gas, methanol, ethanol,  
14 any fuel mixture containing at least 85 percent methanol or ethanol and electricity.

15 “(3) ‘Motor vehicles’ includes state-owned, leased or otherwise controlled motor vehicles and the  
16 supplies, parts and equipment for the operation, maintenance or repair of such motor vehicles.

17 “(4) ‘Official state business’ means activity conducted by a state agency that advances the lawful  
18 policies of the agency as specified by the Oregon Department of Administrative Services by rule.

19 “(5) ‘Standard passenger vehicle’ means a motor vehicle that is commonly known as a sedan or  
20 a station wagon and that is not equipped with special or unusual equipment.

21 “(6) ‘State agency’ or ‘agency’ includes the Legislative Assembly, at its option, or any of its  
22 statutory, standing, special or interim committees, at the option of such committee.

23 “**SECTION 33.** ORS 283.327 is amended to read:

24 “283.327. (1) To the maximum extent economically possible, state-owned motor vehicles,  
25 **whether the motor vehicles are for on-road, off-road or construction applications**, shall use  
26 alternative fuel for operation.

27 “(2) After July 1, 1994, state agencies shall acquire only motor vehicles capable of using alter-  
28 native fuel, except that acquired vehicles assigned to areas unable economically to dispense alter-  
29 native fuel need not be so configured.

30 “(3) Each agency owning motor vehicles shall comply with all safety standards established by  
31 the United States Department of Transportation in the conversion, operation and maintenance of  
32 vehicles using alternative fuel.

33 “**SECTION 34.** ORS 319.530 is amended to read:

34 “319.530. (1) To compensate this state partially for the use of its highways, an excise tax  
35 [*hereby*] is imposed at the rate of 24 cents per gallon on the use of fuel in a motor vehicle.

36 “(2) Except as otherwise provided in subsections [(2) and (3)] **(3) and (4)** of this section, 100  
37 cubic feet of fuel used or sold in a gaseous state, measured at 14.73 pounds per square inch of  
38 pressure at 60 degrees Fahrenheit, is taxable at the same rate as a gallon of liquid fuel.

39 “[2] **(3)** One hundred twenty cubic feet of compressed natural gas used or sold in a gaseous  
40 state, measured at 14.73 pounds per square inch of pressure at 60 degrees Fahrenheit, is taxable at  
41 the same rate as a gallon of liquid fuel.

42 “[3] **(4)** One and three-tenths liquid gallons of propane at 60 degrees Fahrenheit is taxable at  
43 the same rate as a gallon of other liquid fuel.

44 “**(5) Notwithstanding the excise tax specified in subsection (1) of this section, if the fuel**  
45 **used in a motor vehicle is pure or part biodiesel, the excise tax imposed under this section**

1 **shall be reduced at the rate of 0.24 cents per gallon for each percent of biodiesel contained**  
2 **in the fuel.**

3 **“SECTION 35.** ORS 319.530, as amended by section 34 of this 2005 Act, is amended to read:

4 “319.530. (1) To compensate this state partially for the use of its highways, an excise tax is im-  
5 posed at the rate of 24 cents per gallon on the use of fuel in a motor vehicle.

6 “(2) Except as otherwise provided in subsections (3) and (4) of this section, 100 cubic feet of fuel  
7 used or sold in a gaseous state, measured at 14.73 pounds per square inch of pressure at 60 degrees  
8 Fahrenheit, is taxable at the same rate as a gallon of liquid fuel.

9 “(3) One hundred twenty cubic feet of compressed natural gas used or sold in a gaseous state,  
10 measured at 14.73 pounds per square inch of pressure at 60 degrees Fahrenheit, is taxable at the  
11 same rate as a gallon of liquid fuel.

12 “(4) One and three-tenths liquid gallons of propane at 60 degrees Fahrenheit is taxable at the  
13 same rate as a gallon of other liquid fuel.

14 “[5) *Notwithstanding the excise tax specified in subsection (1) of this section, if the fuel used in*  
15 *a motor vehicle is pure or part biodiesel, the excise tax imposed under this section shall be reduced*  
16 *at the rate of 0.24 cents per gallon for each percent of biodiesel contained in the fuel.*]

17 **“SECTION 36. The amendments to ORS 319.530 by section 35 of this 2005 Act become**  
18 **operative on January 2, 2012.**

19 **“SECTION 37.** ORS 319.831 is amended to read:

20 “319.831. (1) If a user obtains fuel for use in a motor vehicle in this state and pays the use fuel  
21 tax on the fuel obtained, the user may apply for a refund of that part of the use fuel tax paid which  
22 is applicable to use of the fuel to propel a motor vehicle:

23 “(a) In another state, if the user pays to the other state an additional tax on the same fuel;

24 “(b) Upon any road, thoroughfare or property in private ownership;

25 “(c) Upon any road, thoroughfare or property, other than a state highway, county road or city  
26 street, for the removal of forest products, as defined in ORS 321.005, or the products of such forest  
27 products converted to a form other than logs at or near the harvesting site, or for the construction  
28 or maintenance of the road, thoroughfare or property, pursuant to a written agreement or permit  
29 authorizing the use, construction or maintenance of the road, thoroughfare or property, with or by:

30 “(A) An agency of the United States;

31 “(B) The State Board of Forestry;

32 “(C) The State Forester; or

33 “(D) A licensee of an agency named in subparagraph (A), (B) or (C) of this paragraph;

34 “(d) By an agency of the United States or of this state or of any county, city or port of this state  
35 on any road, thoroughfare or property, other than a state highway, county road or city street;

36 “(e) By any incorporated city or town of this state;

37 “(f) By any county of this state or by any road assessment district formed under ORS 371.405  
38 to 371.535;

39 “(g) Upon any county road for the removal of forest products as defined in ORS 321.005, or the  
40 products of such forest products converted to a form other than logs at or near the harvesting site,  
41 if:

42 “(A) Such use upon the county road is pursuant to a written agreement entered into with, or  
43 to a permit issued by, the State Board of Forestry, the State Forester or an agency of the United  
44 States, authorizing such user to use such road and requiring such user to pay for or to perform the  
45 construction or maintenance of the county road;

1 “(B) The board, officer or agency that entered into the agreement or granted the permit, by  
2 contract with the county court or board of county commissioners, has assumed the responsibility for  
3 the construction or maintenance of such county road; and

4 “(C) Copies of the agreements or permits required by subparagraphs (A) and (B) of this para-  
5 graph are filed with the Department of Transportation;

6 “(h) By a school district or education service district of this state or the contractors of a school  
7 district or education service district, for those vehicles being used to transport students;

8 “(i) By a rural fire protection district organized under the provisions of ORS chapter 478;

9 “(j) By any district, as defined in ORS chapter 198, that is not otherwise specifically provided  
10 for in this section; [or]

11 “(k) By any state agency, as defined in ORS 240.855; or

12 **“(L) In any location, if the motor vehicle has a registration plate issued under ORS**  
13 **803.520 but meets the qualifications under ORS 805.310 for farm vehicle registration and if**  
14 **the fuel used to propel the motor vehicle is pure biodiesel.**

15 “(2) An application for a refund under subsection (1) of this section shall be filed with the de-  
16 partment within 15 months after the date the use fuel tax, for which a refund is claimed, is paid.

17 “(3) The application for a refund provided by subsection (1) of this section shall include a signed  
18 statement by the applicant indicating the amount of fuel for which a refund is claimed, and the way  
19 in which the fuel was used which qualifies the applicant for a refund. If the fuel upon which the  
20 refund is claimed was obtained from a seller to whom the use fuel tax was paid, the application shall  
21 be supported by the invoices which cover the purchase of the fuel. If the applicant paid the use fuel  
22 tax directly to the department, the applicant shall indicate the source of the fuel and the date it  
23 was obtained.

24 “(4) The department may require any person who applies for a refund provided by subsection (1)  
25 of this section to furnish a statement, under oath, giving the person’s occupation, description of the  
26 machines or equipment in which the fuel was used, the place where used and such other information  
27 as the department may require.

28 **“SECTION 38.** ORS 319.831, as amended by section 37 of this 2005 Act, is amended to read:

29 **“319.831. (1) If a user obtains fuel for use in a motor vehicle in this state and pays the use fuel**  
30 **tax on the fuel obtained, the user may apply for a refund of that part of the use fuel tax paid which**  
31 **is applicable to use of the fuel to propel a motor vehicle:**

32 “(a) In another state, if the user pays to the other state an additional tax on the same fuel;

33 “(b) Upon any road, thoroughfare or property in private ownership;

34 “(c) Upon any road, thoroughfare or property, other than a state highway, county road or city  
35 street, for the removal of forest products, as defined in ORS 321.005, or the products of such forest  
36 products converted to a form other than logs at or near the harvesting site, or for the construction  
37 or maintenance of the road, thoroughfare or property, pursuant to a written agreement or permit  
38 authorizing the use, construction or maintenance of the road, thoroughfare or property, with or by:

39 “(A) An agency of the United States;

40 “(B) The State Board of Forestry;

41 “(C) The State Forester; or

42 “(D) A licensee of an agency named in subparagraph (A), (B) or (C) of this paragraph;

43 “(d) By an agency of the United States or of this state or of any county, city or port of this state  
44 on any road, thoroughfare or property, other than a state highway, county road or city street;

45 “(e) By any incorporated city or town of this state;



1 “(f) By any county of this state or by any road assessment district formed under ORS 371.405  
2 to 371.535;

3 “(g) Upon any county road for the removal of forest products as defined in ORS 321.005, or the  
4 products of such forest products converted to a form other than logs at or near the harvesting site,  
5 if:

6 “(A) Such use upon the county road is pursuant to a written agreement entered into with, or  
7 to a permit issued by, the State Board of Forestry, the State Forester or an agency of the United  
8 States, authorizing such user to use such road and requiring such user to pay for or to perform the  
9 construction or maintenance of the county road;

10 “(B) The board, officer or agency that entered into the agreement or granted the permit, by  
11 contract with the county court or board of county commissioners, has assumed the responsibility for  
12 the construction or maintenance of such county road; and

13 “(C) Copies of the agreements or permits required by subparagraphs (A) and (B) of this para-  
14 graph are filed with the Department of Transportation;

15 “(h) By a school district or education service district of this state or the contractors of a school  
16 district or education service district, for those vehicles being used to transport students;

17 “(i) By a rural fire protection district organized under the provisions of ORS chapter 478;

18 “(j) By any district, as defined in ORS chapter 198, that is not otherwise specifically provided  
19 for in this section; **or**

20 “(k) By any state agency, as defined in ORS 240.855[; or].

21 “[*L*] *In any location, if the motor vehicle has a registration plate issued under ORS 803.520 but*  
22 *meets the qualifications under ORS 805.310 for farm vehicle registration and if the fuel used to propel*  
23 *the motor vehicle is pure biodiesel.*]

24 “(2) An application for a refund under subsection (1) of this section shall be filed with the de-  
25 partment within 15 months after the date the use fuel tax, for which a refund is claimed, is paid.

26 “(3) The application for a refund provided by subsection (1) of this section shall include a signed  
27 statement by the applicant indicating the amount of fuel for which a refund is claimed, and the way  
28 in which the fuel was used which qualifies the applicant for a refund. If the fuel upon which the  
29 refund is claimed was obtained from a seller to whom the use fuel tax was paid, the application shall  
30 be supported by the invoices which cover the purchase of the fuel. If the applicant paid the use fuel  
31 tax directly to the department, the applicant shall indicate the source of the fuel and the date it  
32 was obtained.

33 “(4) The department may require any person who applies for a refund provided by subsection (1)  
34 of this section to furnish a statement, under oath, giving the person’s occupation, description of the  
35 machines or equipment in which the fuel was used, the place where used and such other information  
36 as the department may require.

37 “**SECTION 39. The amendments to ORS 319.831 by section 38 of this 2005 Act become**  
38 **operative on January 2, 2012.**

39  
40 “**ADMINISTRATIVE RULES**

41  
42 “**SECTION 40. In considering the adoption of any administrative rules, the Environmental**  
43 **Quality Commission shall ensure that the rules permit and encourage the sale or lease of**  
44 **new motor vehicles, and new agricultural vehicles and equipment, that use biodiesel as de-**  
45 **fin ed in section 12 of this 2005 Act and that have been approved by the federal Environmental**

1 **Protection Agency.**

2

3

**“CAPTIONS**

4

5 **“SECTION 41. The unit captions used in this 2005 Act are provided only for the conven-**  
6 **ience of the reader and do not become part of the statutory law of this state or express any**  
7 **legislative intent in the enactment of this 2005 Act.”**

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