



Biofuels Statutory Citations

STATE OF OREGON

This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#). These statutes are placed in reverse chronological order using the date of the most recent amendment to the statute. Many biofuels laws were enacted as amendments to previously passed laws.

Current through the 2013 Legislative Session of the Oregon General Assembly.

315.141. Tax credit for production and collection of biomass for use in biofuel

<Text of section applicable to tax years beginning on or after Jan. 1, 2014. See, also, section applicable to tax years prior to Jan. 1, 2014.>

(1) As used in this section:

(a) “Agricultural producer” means a person that produces biomass in Oregon that is used, in Oregon, as biofuel or to produce biofuel.

(b) “Biofuel” means liquid, gaseous or solid fuels, derived from biomass, that have been converted into a processed fuel ready for use as energy by a biofuel producer’s customers or for direct biomass energy use at the biofuel producer’s site.

(c) “Biofuel producer” means a person that through activities in Oregon:

(A) Alters the physical makeup of biomass to convert it into biofuel;

(B) Changes one biofuel into another type of biofuel; or

(C) Uses biomass in Oregon to produce energy.

(d) “Biomass” means organic matter that is available on a renewable or recurring basis and that is derived from:

(A) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and reduce uncharacteristic stand replacing wildfire risk;

(B) Wood material from hardwood timber described in [ORS 321.267 \(3\)](#);

(C) Agricultural residues;

(D) Offal and tallow from animal rendering;

(E) Food wastes collected as provided under ORS chapter 459 or 459A;

(F) Wood debris collected as provided under ORS chapter 459 or 459A;

(G) Wastewater solids; or

(H) Crops grown solely to be used for energy.

(e) “Biomass” does not mean wood that has been treated with creosote, pentachlorophenol, inorganic arsenic or other inorganic chemical compounds or waste, other than matter described in paragraph (d) of this subsection.

(f) “Biomass collector” means a person that collects biomass in Oregon to be used, in Oregon, as biofuel or to produce biofuel.

(g) “Canola” means plants of the genus Brassica:

(A) In which seeds having a high oil content are the primary economically valuable product; and

(B) That have a high erucic acid content suitable for industrial uses or a low erucic acid content suitable for edible oils.

(h) “Oilseed processor” means a person that receives agricultural oilseeds and separates them into meal and oil by mechanical or chemical means.

(i) “Willamette Valley” means Clackamas, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties and the portion of Benton and Lane Counties lying east of the summit of the Coast Range.

(2) The Director of the State Department of Energy may adopt rules to define criteria, only as the criteria apply to organic biomass, to determine additional characteristics of biomass for purposes of this section.

(3)(a) An agricultural producer or biomass collector shall be allowed a credit against the taxes that would otherwise be due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 for:

(A) The production of biomass in Oregon that is used, in Oregon, as biofuel or to produce biofuel;
or

(B) The collection of biomass in Oregon that is used, in Oregon, as biofuel or to produce biofuel.

(b) A credit under this section may be claimed in the tax year in which the credit is certified under subsection (5) of this section.

(c) A taxpayer may be allowed a credit under this section for more than one of the roles defined in subsection (1) of this section, but a biofuel producer that is not also an agricultural producer or a

biomass collector may not claim a credit under this section.

(d) A credit under this section may be claimed only once for each unit of biomass.

(e) Notwithstanding paragraph (a) of this subsection, a tax credit:

(A) Is not allowed for canola grown, collected or produced in the Willamette Valley; and

(B) Is not allowed for grain corn, but a tax credit shall be allowed for other corn material.

(4) The amount of the credit shall equal the amount certified under subsection (5) of this section.

(5)(a) The State Department of Energy may establish by rule procedures and criteria for determining the amount of the tax credit to be certified under this section, consistent with [ORS 469B.403](#). The department shall provide written certification to taxpayers that are eligible to claim the credit under this section.

(b) The State Department of Energy may charge and collect a fee from taxpayers for certification of credits under this section. The fee may not exceed the cost to the department of determining the amount of certified cost.

(c) The State Department of Energy shall provide to the Department of Revenue a list, by tax year, of taxpayers for which a credit is certified under this section, upon request of the Department of Revenue.

(6) The amount of the credit claimed under this section for any tax year may not exceed the tax liability of the taxpayer.

(7) Each agricultural producer or biomass collector shall maintain the written documentation of the amount certified for tax credit under this section in its records for a period of at least five years after the tax year in which the credit is claimed and provide the written documentation to the Department of Revenue upon request.

(8) The credit shall be claimed on a form prescribed by the Department of Revenue that contains the information required by the department.

(9) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, but may not be carried forward for any tax year thereafter.

(10) In the case of a credit allowed under this section:

(a) A nonresident shall be allowed the credit under this section in the proportion provided in [ORS 316.117](#).

(b) If a change in the status of the taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with [ORS 316.117](#).

(c) If a change in the taxable year of the taxpayer occurs as described in [ORS 314.085](#), or if the department terminates the taxpayer's taxable year under [ORS 314.440](#), the credit allowed under this section shall be prorated or computed in a manner consistent with [ORS 314.085](#).

Credits Added by [Laws 2007, c. 739, § 2, eff. Sept. 27, 2007](#). Amended by [Laws 2007, c. 590, § 4, eff. Sept. 27, 2007](#); [Laws 2009, c. 909, § 49, eff. Jan. 1, 2010](#); [Laws 2011, c. 730, § 2a, eff. Sept. 29, 2011](#); [Laws 2012, c. 45, § 15, eff. June 4, 2012](#); [Laws 2013, c. 750, § 40, eff. Oct. 7, 2013](#).

469B.403. Eligibility for biomass tax credit (Formerly cited as OR ST § 469.790)

To be eligible for the tax credit under [ORS 315.141](#), the biomass must be produced or collected in Oregon as a feedstock for bioenergy or biofuel production in Oregon. The credit rates for biomass are:

- (1) For oilseed crops, \$0.05 per pound.
- (2) For grain crops, including but not limited to wheat, barley and triticale, \$0.90 per bushel.
- (3) For virgin oil or alcohol delivered for production in Oregon from Oregon-based feedstock, \$0.10 per gallon.
- (4) For used cooking oil or waste grease, \$0.10 per gallon.
- (5) For wastewater biosolids, \$10.00 per wet ton.
- (6) For woody biomass collected from nursery, orchard, agricultural, forest or rangeland property in Oregon, including but not limited to prunings, thinning, plantation rotations, log landing or slash resulting from harvest or forest health stewardship, \$10.00 per bone dry ton.
- (7) For grass, wheat, straw or other vegetative biomass from agricultural crops, \$10.00 per bone dry ton.
- (8) For animal manure or rendering offal, \$5.00 per wet ton.

Credits Renumbered from 469.790 in 2011 by the Legislative Counsel.