

Requested by Representative MARSH

**PROPOSED AMENDMENTS TO
HOUSE BILL 2816**

1 On page 1 of the printed bill, line 2, delete “285C.180 and” and insert
2 “468.140, 469A.052 and 469A.055”.

3 In line 3, delete “469.992”.

4 After line 5, insert:

5 “(a) ‘Backup power generation’ means equipment, whether located on site
6 or off site, that is used by a high energy use facility solely to provide power
7 during a temporary or emergency power outage, including brief periods for
8 testing or maintenance.”.

9 In line 6, delete “(a)” and insert “(b)”.

10 In line 8, delete “(b)” and insert “(c)”.

11 In line 10, delete “(c)” and insert “(d)”.

12 In line 14, delete “(d)” and insert “(e)”.

13 In line 15, after “uses” delete the rest of the line and insert “10 or more
14 average megawatts of electricity per year;”.

15 Delete line 25.

16 In line 26, delete “(b)” and insert “(a)”.

17 On page 2, line 1, delete “(c)” and insert “(b)”.

18 In line 2, delete “(d)” and insert “(c)”.

19 After line 21, insert:

20 “(c) The department shall publish and make public, for each high energy
21 use facility:

1 “(A) The annual amount of greenhouse emissions associated with the
2 electricity used by the high energy use facility; and

3 “(B) The average amount of greenhouse emissions associated with a
4 megawatt-hour of electricity used by the high energy use facility.

5 “(4) A copy of a power purchase agreement or other contract for supply-
6 ing electricity provided to the department pursuant to subsection (3)(a) of
7 this section is confidential and exempt from disclosure under ORS 192.311 to
8 192.478.”.

9 In line 22, delete “(4)” and insert “(5)”.

10 After line 30, insert:

11 “(6)(a) Renewable energy certificates that are used for electricity received
12 by a high energy use facility through a local utility’s distribution system
13 may be used to comply with the requirements set forth in subsection (2) of
14 this section.

15 “(b) Renewable energy certificates that are used for electricity derived
16 from fossil fuels that is generated on site of a high energy use facility may
17 not be used to comply with the requirements set forth in subsection (2) of
18 this section.

19 “(c) A person who owns, operates or controls a high energy use facility
20 shall provide the commission with an annual accounting report regarding the
21 renewable energy certificates used by the person, if any, to comply with the
22 requirements set forth in subsection (2) of this section.

23 “(d) The commission shall adopt rules establishing additional require-
24 ments regarding the eligibility, reporting and treatment of renewable energy
25 certificates under this section.

26 “(7) The requirements under this section do not apply to greenhouse gas
27 emissions associated with the use by a high energy use facility of backup
28 power generation during a temporary or emergency power outage, including
29 brief periods for testing or maintenance.”.

30 In line 31, delete “(5)” and insert “(8)”.

1 In line 32, delete “469.992” and insert “468.140”.

2 In line 33, delete “(6)” and insert “(9)” and delete “Environmental
3 Quality”.

4 Delete lines 34 through 45 and insert:

5 **“SECTION 2.** ORS 468.140 is amended to read:

6 “468.140. (1) In addition to any other penalty provided by law, any person
7 who violates any of the following shall incur a civil penalty for each day
8 of violation in the amount prescribed by the schedule adopted under ORS
9 468.130:

10 “(a) The terms or conditions of any permit required or authorized by law
11 and issued by the Department of Environmental Quality or a regional air
12 quality control authority.

13 “(b) Any provision of ORS 164.785, 448.305, 454.010 to 454.040, 454.205 to
14 454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640 and ORS
15 chapter 467 and ORS chapters 468, 468A and 468B **and section 1 of this 2023**
16 **Act.**

17 “(c) Any rule or standard or order of the Environmental Quality Com-
18 mission adopted or issued pursuant to ORS 448.305, 454.010 to 454.040, 454.205
19 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640 and
20 ORS chapter 467 and ORS chapters 468, 468A and 468B **and section 1 of this**
21 **2023 Act.**

22 “(d) Any term or condition of a variance granted by the commission or
23 department pursuant to ORS 467.060.

24 “(e) Any rule or standard or order of a regional authority adopted or is-
25 sued under authority of ORS 468A.135.

26 “(f) The financial assurance requirement under ORS 468B.390 and
27 468B.485 or any rule related to the financial assurance requirement under
28 ORS 468B.390.

29 “(2) Each day of violation under subsection (1) of this section constitutes
30 a separate offense.

1 “(3)(a) In addition to any other penalty provided by law, any person who
2 intentionally or negligently causes or permits the discharge of oil or haz-
3 ardous material into the waters of the state or intentionally or negligently
4 fails to clean up a spill or release of oil or hazardous material into the wa-
5 ters of the state as required by ORS 466.645 shall incur a civil penalty not
6 to exceed the amount of \$100,000 for each violation.

7 “(b) In addition to any other penalty provided by law, the following per-
8 sons shall incur a civil penalty not to exceed the amount of \$25,000 for each
9 day of violation:

10 “(A) Any person who violates the terms or conditions of a permit au-
11 thorizing waste discharge into the air or waters of the state.

12 “(B) Any person who violates any law, rule, order or standard in ORS
13 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to
14 454.755 and 783.625 to 783.640 and ORS chapters 468, 468A and 468B relating
15 to air or water pollution.

16 “(C) Any person who violates the provisions of a rule adopted or an order
17 issued under ORS 459A.590.

18 “(4) In addition to any other penalty provided by law, any person who
19 violates the provisions of ORS 468B.130 shall incur a civil penalty not to
20 exceed the amount of \$1,000 for each day of violation.

21 “(5) Notwithstanding subsection (1)(c) and (e) of this section, the owner
22 or lessee of a motor vehicle may not incur a civil penalty for a violation of
23 the requirement that the owner or lessee obtain a motor vehicle pollution
24 control system certificate of compliance issued under ORS 468A.380.

25 “(6) Notwithstanding the limits of ORS 468.130 (1) and in addition to any
26 other penalty provided by law, any person who intentionally or negligently
27 causes or permits open field burning contrary to the provisions of ORS
28 468A.555 to 468A.620 and 468A.992, 476.380 and 478.960 shall be assessed by
29 the department a civil penalty of at least \$20 but not more than \$40 for each
30 acre so burned. Any amounts collected by the department pursuant to this

1 subsection shall be deposited with the State Treasurer to the credit of the
2 General Fund and shall be available for general governmental expense. As
3 used in this subsection, ‘open field burning’ does not include propane flaming
4 of mint stubble.

5 **“SECTION 3.** ORS 469A.052 is amended to read:

6 “469A.052. (1) The large utility renewable portfolio standard imposes the
7 following requirements on an electric utility that makes sales of electricity
8 to retail electricity consumers in an amount that equals three percent or
9 more of all electricity sold to retail electricity consumers:

10 “(a) At least five percent of the electricity sold by the electric utility to
11 retail electricity consumers in each of the calendar years 2011, 2012, 2013 and
12 2014 must be qualifying electricity;

13 “(b) At least 15 percent of the electricity sold by the electric utility to
14 retail electricity consumers in each of the calendar years 2015, 2016, 2017,
15 2018 and 2019 must be qualifying electricity;

16 “(c) At least 20 percent of the electricity sold by the electric utility to
17 retail electricity consumers in each of the calendar years 2020, 2021, 2022,
18 2023 and 2024 must be qualifying electricity;

19 “(d) At least 25 percent of the electricity sold by a consumer-owned utility
20 to retail electricity consumers in the calendar year 2025 and subsequent
21 calendar years must be qualifying electricity;

22 “(e) At least 27 percent of the electricity sold by an electric company to
23 retail electricity consumers in each of the calendar years 2025, 2026, 2027,
24 2028 and 2029 must be qualifying electricity;

25 “(f) At least 35 percent of the electricity sold by an electric company to
26 retail electricity consumers in each of the calendar years 2030, 2031, 2032,
27 2033 and 2034 must be qualifying electricity;

28 “(g) At least 45 percent of the electricity sold by an electric company to
29 retail electricity consumers in each of the calendar years 2035, 2036, 2037,
30 2038 and 2039 must be qualifying electricity; and

1 “(h) At least 50 percent of the electricity sold by an electric company to
2 retail electricity consumers in the calendar year 2040 and subsequent calen-
3 dar years must be qualifying electricity.

4 “(2) If, on June 6, 2007, an electric utility makes sales of electricity to
5 retail electricity consumers in an amount that equals less than three percent
6 of all electricity sold to retail electricity consumers, but in any three con-
7 secutive calendar years thereafter makes sales of electricity to retail elec-
8 tricity consumers in amounts that average three percent or more of all
9 electricity sold to retail electricity consumers, the electric utility is subject
10 to the renewable portfolio standard described in subsection (3) of this sec-
11 tion. The electric utility becomes subject to the renewable portfolio standard
12 described in subsection (3) of this section in the calendar year following the
13 three-year period during which the electric utility makes sales of electricity
14 to retail electricity consumers in amounts that average three percent or more
15 of all electricity sold to retail electricity consumers.

16 “(3) An electric utility described in subsection (2) of this section must
17 comply with the following renewable portfolio standard:

18 “(a) Beginning in the fourth calendar year after the calendar year in
19 which the electric utility becomes subject to the renewable portfolio stand-
20 ard described in this subsection, at least five percent of the electricity sold
21 by the electric utility to retail electricity consumers in a calendar year must
22 be qualifying electricity;

23 “(b) Beginning in the 10th calendar year after the calendar year in which
24 the electric utility becomes subject to the renewable portfolio standard de-
25 scribed in this subsection, at least 15 percent of the electricity sold by the
26 electric utility to retail electricity consumers in a calendar year must be
27 qualifying electricity;

28 “(c) Beginning in the 15th calendar year after the calendar year in which
29 the electric utility becomes subject to the renewable portfolio standard de-
30 scribed in this subsection, at least 20 percent of the electricity sold by the

1 electric utility to retail electricity consumers in a calendar year must be
2 qualifying electricity; and

3 “(d) Beginning in the 20th calendar year after the calendar year in which
4 the electric utility becomes subject to the renewable portfolio standard de-
5 scribed in this subsection, at least 25 percent of the electricity sold by the
6 electric utility to retail electricity consumers in a calendar year must be
7 qualifying electricity.

8 **“(4) The sales of electricity that an electric utility makes for use**
9 **by a high energy use facility, as defined in section 1 of this 2023 Act,**
10 **do not count towards determining the amount of the sales of elec-**
11 **tricity to retail electricity consumers that an electric utility makes**
12 **under this section.**

13 **“SECTION 4.** ORS 469A.055 is amended to read:

14 “469A.055. (1) Except as provided in this section, an electric utility that
15 makes sales of electricity to retail electricity consumers in an amount that
16 equals less than three percent of all electricity sold to retail electricity
17 consumers is not subject to ORS 469A.005 to 469A.210.

18 “(2) Beginning in calendar year 2025, at least five percent of the elec-
19 tricity sold to retail electricity consumers in a calendar year by an electric
20 utility must be qualifying electricity if the electric utility makes sales of
21 electricity to retail electricity consumers in an amount that equals less than
22 one and one-half percent of all electricity sold to retail electricity consumers.

23 “(3) Beginning in calendar year 2025, at least 10 percent of the electricity
24 sold to retail electricity consumers in a calendar year by an electric utility
25 must be qualifying electricity if the electric utility makes sales of electricity
26 to retail electricity consumers in an amount that equals or is more than one
27 and one-half percent, and less than three percent, of all electricity sold to
28 retail electricity consumers.

29 “(4) The exemption provided by subsection (1) of this section terminates
30 if an electric utility, or a joint operating entity that includes the electric

1 utility as a member, acquires electricity from an electricity generating fa-
2 cility that uses coal as an energy source or makes an investment on or after
3 June 6, 2007, in an electricity generating facility that uses coal as an energy
4 source. Beginning in the calendar year following the year in which an elec-
5 tric utility's exemption terminates under this subsection, the electric utility
6 is subject to the renewable portfolio standard described in ORS 469A.052 (3)
7 and the provisions of ORS 469A.005 to 469A.210 that apply to ORS 469A.052
8 (3). This subsection does not apply to:

9 “(a) A wholesale market purchase by an electric utility for which the
10 energy source for the electricity is not known;

11 “(b) BPA electricity;

12 “(c) Acquisition of electricity under a contract entered into before June
13 6, 2007;

14 “(d) A renewal or replacement contract for a contract for purchase of
15 electricity described in paragraph (c) of this subsection;

16 “(e) A purchase of electricity if the electricity is included in a contract
17 for the purchase of qualifying electricity and is necessary to shape, firm or
18 integrate the qualifying electricity;

19 “(f) Electricity provided to an electric utility under a contract for the
20 acquisition of an interest in an electricity generating facility that was en-
21 tered into by the electric utility before June 6, 2007, or entered into before
22 June 6, 2007, by an electric cooperative organized under ORS chapter 62 of
23 which the electric utility is a member, without regard to whether the elec-
24 tricity is being used to serve the load of the electric utility on June 6, 2007;
25 or

26 “(g) Investments in an electricity generating facility that uses coal as an
27 energy source if the investments are for the purpose of improving the
28 facility's pollution mitigation equipment or the facility's efficiency or are
29 necessary to comply with requirements or standards imposed by govern-
30 mental entities.

1 “(5) The exemption provided by subsection (1) of this section terminates
2 for a consumer-owned utility if the consumer-owned utility acquires service
3 territory of an electric utility without the consent of the electric utility.
4 Except as provided in subsection (6) of this section, beginning in the calen-
5 dar year following the year in which a consumer-owned utility’s exemption
6 terminates under this subsection, the consumer-owned utility is subject to
7 the renewable portfolio standard described in ORS 469A.052 (3) and the pro-
8 visions of ORS 469A.005 to 469A.210 that apply to ORS 469A.052 (3).

9 “(6) If an electric utility acquires service territory of another electric
10 utility without the consent of the electric utility from which service territory
11 was acquired, then beginning in the calendar year following the acquisition,
12 the percentage of the acquiring electric utility’s electricity sold to all retail
13 electricity consumers of the acquiring electric utility that is sold to retail
14 electricity consumers that are located in the acquired service territory is
15 subject to the renewable portfolio standard that is applicable to the electric
16 utility from which service territory was acquired and the provisions of ORS
17 469A.005 to 469A.210 that apply to the renewable portfolio standard.

18 “(7) The provisions of this section do not authorize the acquisition by a
19 municipal electric utility of service territory of a people’s utility district
20 organized under ORS chapter 261.

21 “(8) The provisions of this section do not affect the requirement that
22 electric utilities offer a green power rate under ORS 469A.205.

23 **“(9) The sales of electricity that an electric utility makes for use
24 by a high energy use facility, as defined in section 1 of this 2023 Act,
25 do not count towards determining the amount of the sales of elec-
26 tricity to retail electricity consumers that an electric utility makes
27 under this section.”.**

28 Delete pages 3 and 4.

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