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## WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

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Memo No. 1

TO: MEMBERS OF THE SPECIAL COMMITTEE ON DOMESTIC BIOFUELS

FROM: John Stolzenberg, Chief of Research Services

RE: State Statutes Relating to Transportation Biofuels

DATE: October 8, 2008

This Memo is a reference document for the committee that provides the text of Wisconsin statutes directly relating to transportation biofuels. These statutes were identified using keyword searches of the statutes based on a number of terms, including “ethanol” (in the context of its use as a motor fuel), “gasohol,” “biodiesel,” “renewable energy,” “alternative energy,” and “alternative fuel.” Some of these statutes apply to renewable energy and comparable terms in general and include, but are not limited to, transportation biofuels.

The statutes are grouped under the following subjects:

- Program development and administration, which may include duties or responsibilities of a state agency relating to one or more of the other subjects.
- Financial assistance, including tax credits, tax refunds, grants, loans, and loan guarantees.
- Marketplace participant, including programs in which state agencies purchase and use transportation biofuels.
- Public education, including training and technical assistance to identified sectors of the public.
- Regulation, including provisions that impose a regulation and that provide relief from one or more regulations.

The Memo does not include more general statutes that could be applied to a transportation biofuels project or initiative, such as a general state tax or an economic development or agriculture program. It also does not include appropriations under ch. 20, Stats., or session laws.

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### **Program Development and Administration**

#### **Office of Energy Independence [s. 16.956]**

**16.956 Office of energy independence. (1)** In this section:

- (a) “Biodevelopment” means research and development relating to the use of **renewable resources** for electricity, energy, and heating and transportation fuels.
- (b) “Bioindustry” means the manufacture, production, and trade of **renewable resources** used for electricity, energy, and heating and transportation fuels.
- (c) “Office” means the office of energy independence.

**(2)** The office shall work on initiatives that have the following goals:

- (a) Advancing Wisconsin's vision for energy independence by generating at least 25 percent of power, and at least 25 percent of transportation fuels, used in this state from renewable resources by 2025.
- (b) Capturing in-state at least 10 percent of the national emerging bioindustry and renewable energy markets by 2030.
- (c) Ensuring that Wisconsin is a national leader in groundbreaking research that will make alternative energies more affordable and create well-paying jobs in this state.
- (b) Serve as a single point of contact to assist businesses, local units of government, and nongovernmental organizations that are pursuing biodevelopment, energy efficiency, and energy independence.

(c) Develop energy independence policy options for consideration by the governor and state agencies.

(d) Identify federal funding opportunities and facilitate applications for federal funding by private, and state and local governmental, entities.

(e) Perform duties necessary to maintain federal energy funding and any designations required for such funding.

(3) (intro.) The office shall do all of the following:

(a) Ensure and facilitate the implementation of the initiatives specified in sub. (2) and identify barriers to the implementation of such initiatives.

(b) Serve as a single point of contact to assist businesses, local units of government, and nongovernmental organizations that are pursuing biodevelopment, energy efficiency, and energy independence.

(c) Develop energy independence policy options for consideration by the governor and state agencies.

(d) Identify federal funding opportunities and facilitate applications for federal funding by private, and state and local governmental, entities.

(e) Perform duties necessary to maintain federal energy funding and any designations required for such funding.

### **Financial Assistance**

**Biodiesel Fuel Production Income Tax Credit [s. 71.07 (3h)]** [Also in ss. 71.28 (3h) and 71.47 (3h)]

**71.07 (3h) BIODIESEL FUEL PRODUCTION CREDIT.** (a) Definitions. In this subsection:

1. “**Biodiesel** fuel” has the meaning given in s. 168.14 (2m) (a).

2. “Claimant” means a person who is engaged in the business of producing **biodiesel** fuel in this state and who files a claim under this subsection.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2009, and before January 1, 2013, for a claimant who produces at least 2,500,000 gallons of **biodiesel** fuel in this state in the taxable year, a claimant may claim as a credit against the tax imposed under s. 71.02, up to the amount of the tax, an amount that is equal to the number of gallons of **biodiesel** fuel produced by the claimant in this state in the taxable year multiplied by 10 cents.

(c) *Limitations.* 1. The maximum amount of the credit that a claimant may claim under this subsection in a taxable year is \$1,000,000.

2. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their **biodiesel** fuel production, as described under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interests.

(d) Administration. Section 71.28 (4) (e) to (h) as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection. [Also in ss. 71.28 (3h) and 71.47 (3h).]

**Ethanol and Biodiesel Fuel Pump Income Tax Credit [s. 71.07 (5j)]** [Also in ss. 71.28 (5j) and 71.47 (5j)]

**71.07 (5j) Ethanol and biodiesel fuel pump credit.**

(a) (intro.) *Definitions.* In this subsection:

1. “**Biodiesel** fuel” has the meaning given in s. 168.14 (2m) (a).
2. “Claimant” means a person who files a claim under this subsection.
3. “Motor vehicle fuel” has the meaning given in s. 78.005 (13).

(b) Filing claims. Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2007, and before January 1, 2018, a claimant may claim as a credit against the taxes imposed under s. 71.02, up to the amount of the taxes, an amount that is equal to 25 percent of the amount that the claimant paid in the taxable year to install or retrofit pumps located in this state that dispense motor vehicle fuel consisting of at least 85 percent **ethanol** or at least 20 percent **biodiesel** fuel.

(c) *Limitations.*

1. The maximum amount of the credit that a claimant may claim under this subsection in a taxable year is an amount that is equal to \$5,000 for each service station for which the claimant has installed or retrofitted pumps as described under par. (b).
2. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

## **Refund [of Motor Vehicle Fuel and Alternative Fuel Taxes]; Procedures; Claim Unassignable [s. 78.75]**

### **78.75 Refund; procedure; claim unassignable.**

(1) In this section, “invoice” means the top copy and not a carbon copy.

(1m) (a) 1. Except as provided under subds. 2. and 2m., a person who uses motor vehicle fuel or an **alternate fuel** upon which has been paid the tax required under this chapter, for the purpose of operating a taxicab for the transportation of passengers, for the purpose of operating a motorboat exempt from registration as a motor vehicle under s. 341.05 (20) on privately owned land or for any purpose other than operating a motor vehicle upon the public highways, shall be reimbursed and repaid the amount of the tax paid upon making and filing a claim if the claim is for the tax on 100 gallons or more.

2. A person who uses motor vehicle fuel or an **alternate fuel** upon which has been paid the tax required under this chapter for the purpose of operating a snowmobile, as defined under s. 340.01 (58a), an aircraft, as defined under s. 78.55 (2), or a motorboat, as defined under s. 30.50 (6), unless the motorboat is not a recreational motorboat, may not be reimbursed or repaid the amount of tax paid.

2m. A person who uses motor vehicle fuel or an **alternate fuel** upon which has been paid the tax required under this chapter for the purpose of operating an all-terrain vehicle, as defined under s. 340.01 (2g), may not be reimbursed or repaid the amount of tax paid unless the all-terrain vehicle is registered for private use under s. 23.33 (2) (d) or (2g).

3. Claims under subd. 1. shall be made and filed. The forms shall indicate that refunds are not available for motor vehicle fuel or **alternate fuels** used for motorboats, except motorboats exempt from registration as motor vehicles under s. 341.05 (20) and motorboats that are not recreational motorboats, or motor vehicle fuel or **alternate fuels** used for snowmobiles and that the estimated snowmobile motor vehicle fuel or **alternate fuels** tax payments are used for snowmobile trails and areas. The forms shall indicate that refunds are not available for motor vehicle fuel or **alternate fuels** used for all-terrain vehicles unless the all-terrain vehicle is registered for private use under s. 23.33 (2) (d) or (2g) and shall indicate that estimated all-terrain vehicle motor vehicle fuel or **alternate fuels** tax payments are used for all-terrain vehicle trails and areas. The forms shall also indicate that refunds are not available for the tax on less than 100 gallons. The department [of revenue] shall distribute forms in sufficient quantities to each county clerk.

(b) Such claim shall be filed not later than 12 months after the date of purchase of the motor vehicle fuel or **alternate fuel**, or the claim shall not be allowed.

(c) The seller, upon request, shall furnish each purchaser with an invoice prepared at the time of delivery, and the purchaser shall send that invoice or a list of purchases to the department when making a claim for refund. The invoice shall contain the following information: date of sale; name and address of seller;

name of purchaser, which name must be the name of the claimant; number of gallons purchased; the type of fuel; the purchase price; and the amount of Wisconsin motor vehicle fuel or **alternate fuels** tax as a separate item. If the purchaser sends invoices to the department, the purchaser shall send a separate invoice for each sale and delivery, and the invoice shall be legibly written and shall comply with the foregoing requirements. If the purchaser sends a list of purchases to the department, the purchaser shall retain for 4 years the invoices that are evidence of those purchases and allow the department to inspect them. The claim shall state whether or not the applicant owns an automobile or truck or any other motor-driven machinery or appliance which consumes motor vehicle fuel or an **alternate fuel**; the total number of gallons of motor vehicle fuel or **alternate fuel** purchased; the number of gallons of such motor vehicle fuel or **alternate fuel** purchased on which refund is claimed; a detailed statement of the consumption of such motor vehicle fuel or **alternate fuel** on which a refund is claimed, describing the machinery, equipment or appliance in which consumed, giving the serial or manufacturer's number of the motor and the approximate number of gallons consumed in each; or if such fuel were not consumed in any such machinery, equipment or appliance, then a description of the purposes for which the fuel was consumed with the approximate number of gallons consumed for each purpose; a statement whether or not deduction has been made for motor vehicle fuel or **alternate fuels** consumed in applicant's automobile or truck; and such other information as the department deems necessary.

(e) On the filing of a claim under par. (a), accompanied by the invoice or list of purchases, the department shall determine the amount of refund due. The department may make such investigation of the correctness of the facts stated in such claim as it deems necessary and may require a claimant to submit records to substantiate the claim. When the department has approved such claim, it shall reimburse the claimant out of the moneys collected under this chapter to be used for carrying out this section. No refund shall be claimed by or allowed to any person on account of any motor vehicle fuel or **alternate fuel** carried from this state in the ordinary fuel tank of a motor vehicle.

(f) The penalty provided in this chapter for presenting a false or fraudulent statement shall be printed in full on the claim form.

(2) The right of any person to a refund under this section shall not be assignable and the application for a refund shall be made by the same person who purchased the motor vehicle fuel or **alternate fuel** as shown in the invoice by the person selling the same, and by no other person, and the proceeds or amount of such refund as determined by the department shall be paid to the person whose name appears on the seller's invoice and to no other person.

#### **Transportation Facilities Economic Assistance and Development; Ethanol Production Facilities [s. 84.185 (8r)]**

**84.185 (8r) Ethanol production facilities.** The department [of transportation] may not make a grant under this section after July 27, 2005, for an improvement related to an economic development project that involves the construction of an **ethanol** production facility, unless the department determines a competitive bidding process is used for the construction of the ethanol production facility.

**Agricultural Diversification [s. 93.46 (1), (2), and (3)]**

**93.46 (1)** The department [of agriculture, trade and consumer protection] shall establish an agricultural diversification program and shall do all of the following:

- (a) Conduct market research and develop long-range plans to determine potential for the production and marketing of agricultural crops and livestock.
- (am) Jointly with the department of commerce, conduct research and develop long-range plans to promote and establish deer farms.
- (b) Provide assistance to individuals and organizations on marketing strategies, agricultural product processing and other matters related to agricultural diversification.
- (c) Coordinate the agricultural diversification program with technical assistance programs of other agencies.
- (d) Promote and assist the development and use of industrial and commercial products from agricultural commodities and forestry products, including **alternative fuels** produced from agricultural source stocks.

...

**(2)** (a) The department shall make agricultural research and development grants. The department may provide grants to fund demonstration projects, feasibility analyses and applied research directed toward new or alternative technologies and practices that will stimulate agricultural development and economic activity.

(b) The department may not award a grant under this subsection unless the grant is for a project conducted in this state that has at least one of the following purposes:

1. Creation of jobs in the agricultural industry.
2. New capital investment and expansion in the agricultural industry.
3. Agricultural product market development and expansion.
4. Diversification and expansion of the production, processing and distribution of agricultural products.
5. Commercial application of new technologies or practices related to agricultural products.
6. Increased use of surplus agricultural products.
7. Improvement of the competitive position of this state's agricultural industry.
8. Efficient use of farmland and other agricultural resources.



(c) The department may not fund any project under this subsection if the proposed length of the project exceeds 3 years. The total funding to a single project under this subsection may not exceed \$50,000.

(d) During the 1993-95 fiscal biennium, the department shall award grants from the appropriation under s. 20.115 (4) (c) to support applied research and development projects related to commercial aquaculture development. The moneys provided under this paragraph may be granted to any collaborative public or private sector project. A grant under this paragraph may not exceed 50% of the cost of the project.

(e) The department may not make a grant under this subsection that exceeds 75 percent of project costs.

(3) (a) The department may make grants for any of the following:

1. Research and development of technologies, including digesters and **biodiesel** technology, for using agricultural products or agricultural waste as energy sources.
2. Encouraging the use of agricultural products or agricultural waste, including forestry waste, as energy sources.
3. Reducing the generation of agricultural wastes, including forestry wastes, or increasing the beneficial use of agricultural wastes, including forestry wastes.
4. Encouraging the development of biochemicals from agricultural products.

(b) The department may provide the recipient of a grant under this subsection with not more than \$300,000, of which not more than \$150,000 may be for planning and not more than \$150,000 may be for implementation. The department may not make a grant under this subsection that exceeds 50 percent of project costs.

### **School Transportation Biodiesel Fuel Cost Assistance [s. 121.575]**

**121.575 School transportation bio-diesel fuel cost assistance.** (1) In this section:

(a) “**Bio-diesel fuel**” has the meaning given in s. 16.045 (1) (c).

(b) “Petroleum-diesel fuel” has the meaning given for “diesel fuel” in s. 78.005 (5), but does not include bio-diesel fuel.

(2) (a) The department [of public instruction] may provide school transportation aids to school districts for the increased costs incurred by districts in utilizing **bio-diesel fuel** as compared with the costs of utilizing petroleum-diesel fuel for school bus transportation.

(b) If the department determines to provide aids to school districts under par. (a), the department, in conjunction with the department of administration, shall apply to the federal government for **bio-diesel fuel** cost assistance for the purpose of

financing payment of the aids. The department shall disburse federal aids received from the appropriation under s. 20.255 (2) (m).

(3) If the federal government requires, as a condition of full federal financial participation under sub. (2) (b), that this state provide assistance for the purposes of sub. (2) (a) from state resources, the department shall provide the assistance from the appropriation under s. 20.255 (2) (cr) in the minimum amount required to obtain full federal financial participation.

(4) (a) Any school district that utilizes **bio-diesel fuel** for school bus transportation may apply to the department for state assistance to finance the costs of utilizing that fuel. Except as provided in sub. (5), the department shall apportion assistance to school districts on the basis of the increased costs incurred by each school district in utilizing **bio-diesel fuel** as compared to the cost that the school district would have incurred in utilizing petroleum-diesel fuel for school bus transportation in the fiscal year preceding the fiscal year for which aids are paid, as adjusted to reflect any change in the statewide average cost of **bio-diesel fuel** for the current fiscal year as compared to the statewide average cost of such fuel for the preceding fiscal year.

(b) For purposes of par. (a), if a school district does not utilize **bio-diesel fuel** for some or all of the school bus transportation provided by the school district in any fiscal year, the department shall compute and utilize, for purposes of this subsection, the cost differential that the school district would have incurred in utilizing **bio-diesel fuel** on the basis of statewide average costs.

(c) The department shall annually determine the statewide average cost of **bio-diesel fuel** and petroleum-diesel fuel for purposes of administration of this subsection.

(d) If in any fiscal year there are insufficient moneys available to reimburse all school districts that apply for state assistance under par. (a) for the full amount of reimbursable costs under this subsection, the department shall, after making any required deduction under sub. (5), prorate the available moneys among the school districts entitled thereto on a per pupil basis.

(5) Each school district that receives aids under sub. (2) (a) for any fiscal year shall report to the department, in the form prescribed by the department, a statement of its actual costs incurred in utilizing **bio-diesel fuel** for school bus transportation in that fiscal year. If the actual increased costs incurred by a school district in utilizing **bio-diesel fuel** for school bus transportation in any fiscal year, as compared to the costs that the school district would have incurred in utilizing petroleum-diesel fuel for school bus transportation, are less than the amount of the aids received by the school district under sub. (2) (a) for that fiscal year, the department shall deduct the amount of the difference from the amount of the aids payable to the school district under sub. (2) (a) for the current fiscal year.

#### **Grants For Ethanol Production Facilities [s. 560.031]**

**560.031 Grants for ethanol production facilities.** Notwithstanding ss. 560.138 (2) (a) [gaming economic diversification grants and loans] and 560.17 (3) [rural

economic development program], the department [of commerce] may not make a grant for an **ethanol** production facility on which construction begins after July 27, 2005, unless a competitive bidding process is used for the construction of the **ethanol** production facility.

### **Renewable Energy Grants and Loans [s. 560.126]**

**560.126 Renewable energy grants and loans.** (1) The department [of commerce] may award a grant or make a loan from the appropriations under s. 20.143 (1) (ie) or (tm) to a business or researcher to fund any of the following projects:

- (a) Research and development, including demonstration projects, into **renewable energy** technologies.
- (b) Development of **renewable energy** sources and infrastructure in Wisconsin, including the conversion of nonrenewable energy sources to **renewable energy** sources.
- (c) The commercial application of **renewable energy** technologies.
- (d) The construction of one or more **cellulosic ethanol** production plants.

(2) (a) The department shall consider all of the following criteria to evaluate applications for a grant or loan under this section:

1. The extent to which the project will aid in the research, development, or use of **renewable energy** sources in Wisconsin.
2. The extent to which the project will improve the competitive position or enhance the capabilities of Wisconsin's **renewable energy** industries.
3. Whether the project is one in which Wisconsin holds a competitive advantage over other states.
4. The likelihood that the project will lead to the commercial application of new practices or technologies that involve the development, production, processing, or distribution of **renewable energy**.
5. The extent to which the project will use existing, surplus, or by-products of natural resources in this state.
6. The extent to which the project will strengthen Wisconsin's existing industries by converting wastes or by-products generated by existing industries into **renewable energy**.
7. The extent to which the project will develop technologies to increase the capacity of Wisconsin's manufacturing industries to utilize **renewable energy** sources.

(b) The department may also consider the following criteria to evaluate applications for a grant or loan under this section:

1. The criteria under ss. 560.602 and 560.605.
  2. Whether the applicant is a small business, a minority owned business under s. 560.80 (8), a locally owned business, or a farm.
  3. The geographical distribution of grants awarded and loans made under this section.
- (3) A grant under this section may not exceed 50 percent of the costs of an eligible project.
- (4) In consultation with the department of agriculture, trade and consumer protection, the department of natural resources, and the public service commission, the department may promulgate rules necessary to administer this section.

**Wisconsin Development Fund; Grant and Loan Criteria; Ethanol Production Facility [s. 560.605 (1)]**

**560.605 (1)** Upon receipt of an application by an eligible recipient, the [development finance] board may consider any of the following in determining whether to award a grant or loan under s. 560.61 [Wisconsin development fund]:

...

(p) For an **ethanol** production facility on which construction begins after July 27, 2005, whether a competitive bidding process is used for the construction of the **ethanol** production facility.

**Insurance-Investments; Permitted Classes of Investments [s. 620.22 (7)]**

**620.22 Permitted classes of investments.** Any of the following classes of investments may be counted for the purposes specified in s. 620.21, whether the investments are made by the insurer alone or as a participant in a partnership or joint venture:

...

(7) Investments in property and facilities for the development and production of solar or geothermal energy, fossil or synthetic fuel, or **gasohol**, including, but not limited to, ownership and control of such property and facilities, of up to 5% of the portion of the insurer's assets that exceeds \$2 billion.

**Marketplace Participant**

**Gasohol, Alternative Fuels, and Hybrid-Electric Vehicles [s. 16.045]**

**16.045 Gasohol, alternative fuels, and hybrid-electric vehicles.** (1) In this section:

(a) “Agency” means an office, department, independent agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law, that is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 232, 233, 234, 235, 237, or 279.

(b) “**Alternative fuel**” means any of the following fuels the use of which the department of natural resources finds would improve air quality as compared to the use of gasoline or petroleum-based diesel fuel:

1. **Biodiesel** fuel.

2. Methanol.

3. **Ethanol**.

4. Natural gas.

5. Propane.

6. Hydrogen.

7. Coal-derived liquid.

8. Electricity.

8m. Solar energy.

9. **Fuel derived from biological material**.

10. Any other fuel except **gasohol** that the department of natural resources finds to be composed substantially of material other than petroleum, the use of which would yield substantial environmental benefits.

(c) “**Biodiesel** fuel” means a fuel that is comprised of monoalkyl esters of long chain fatty acids derived from vegetable oils or animal fats, either in pure form or mixed in any combination with petroleum-based diesel fuel.

(d) “**Gasohol**” means any motor fuel containing at least 10% alcohol the use of which the department of natural resources finds would improve air quality as compared to the use of gasoline or petroleum-based diesel fuel.

(e) “Hybrid-electric vehicle” means a vehicle that has a chemically fueled internal combustion engine which is capable of operating on gasoline, one or more **alternative fuels**, or diesel fuel, or by means of a gas turbine, and is also equipped with an electric motor and an energy storage device.

(2) The department [of administration] shall, whenever feasible, require agencies to store no motor fuel except **gasohol** or **alternative fuel** in facilities maintained by the agencies for the storage of fuel for and the refueling of state-owned or state-leased vehicles. This subsection does not authorize construction or operation of such facilities.

(3) The department shall, by the most economical means feasible, place a copy of the current list of **gasohol** and **alternative fuel** refueling facilities received from the department of agriculture, trade and consumer protection under s. 100.265 in each state-leased motor vehicle that is stored on state property for more than 7 days and in each state-owned motor vehicle. The department shall also make reasonable efforts to inform state officers and employees whose responsibilities make them likely to be using motor vehicles in connection with state business of the existence and contents of the list maintained under s. 100.265 and of any revisions thereto. The department may distribute the list or information relating to the list with salary payments or expense reimbursements to state officers and employees.

(4) The department shall require all state employees to utilize hybrid-electric vehicles or vehicles that operate on **gasohol** or **alternative fuel** for all state-owned or state-leased motor vehicles whenever such utilization is feasible. However, the department shall not lease or purchase any hybrid-electric vehicle, or authorize the lease or purchase of any hybrid-electric vehicle, unless the manufacturer certifies to the department that final assembly of the vehicle occurred in the United States.

(5) The department shall encourage distribution of **gasohol** and **alternative fuels** and usage of hybrid-electric vehicles or vehicles that operate on **gasohol** or **alternative fuels** by officers and employees who use personal motor vehicles on state business and by residents of this state generally. The department shall report to the appropriate standing committees under s. 13.172 (3) concerning distribution of **gasohol** and **alternative fuels** and usage of hybrid-electric vehicles and vehicles that operate on **gasohol** or **alternative fuels** in this state, no later than April 30 of each year.

### **Public Education**

#### **Governor's Energy Awards [s. 14.165]**

**14.165 Governor's energy awards.** (1) *Awards.* The governor may issue awards to recognize outstanding accomplishments or efforts related to energy conservation or **renewable energy** systems. Awards may be made for all of the following:

- (a) Public and private sector activities.
- (b) New building design, building renovation or upgrading and maintaining existing equipment.
- (c) Demand-side management programs.
- (d) Contributions by engineers, architects and other professionals.
- (e) Industrial applications.

(2) *Recommendations.* The department of administration, department of commerce and public service commission shall make recommendations to the governor for awards under sub. (1).

### **University Extension Work Functions [s. 59.56 (3) (f)]**

**59.56 (3) (f) Functions.** 1. A university extension program is authorized, under the direction and supervision of the county committee on agriculture and extension education, cooperating with the university extension of the University of Wisconsin, and within the limits of funds provided by the [county] board and cooperating state and federal agencies, to make available the necessary facilities and conduct programs in the following areas:

- a. Professional and liberal education.
  - b. Human resource development.
  - c. Economic and environmental development.
  - d. Extension work provided for in an act of congress that was approved on May 8, 1914 (38 Stat. 372) and all acts supplementary thereto.
  - e. Any other extension work that is authorized by local, state or federal legislation.
2. Such a program may consist of, but not be limited to, providing agents to conduct programs on energy conservation and **renewable energy** resource systems, conduct evaluations and provide planning, analysis and other technical support to community agencies and organizations, small businesses, individuals interested in energy conservation in local communities and primary and secondary school teachers.
3. Such program may take any action that will facilitate the accomplishment of any of the functions under this paragraph, including without limitation because of enumeration the following:
- a. The training of group leaders and the directing of group activities.
  - b. Individual or group instruction or consultation.
  - c. Demonstration projects, exhibits and other instructional means.
  - d. Group workshops, institutes, and conferences.
  - e. The creation of citizens' advisory committees.
  - f. The dissemination of information by any appropriate means including press, radio and television.
  - g. The imposition of fees for certain desired educational services when sufficient public funds are not available to cover costs.
  - h. Cooperation with other local, state and federal agencies.

### **Agricultural Education and Workforce Development Council [ss. 15.137 (2) and 93.33]**

**15.137 (2) Agricultural education and workforce development council.**

(a) (intro.) There is created in the department of agriculture, trade and consumer protection an agricultural education and workforce development council consisting of the following members:

1. The secretary of agriculture, trade and consumer protection or his or her designee.
2. The state superintendent of public instruction or his or her designee.
3. The secretary of workforce development or his or her designee.
- 3m. The secretary of commerce or his or her designee.
4. The secretary of natural resources or his or her designee.
5. The president of the University of Wisconsin System or his or her designee.
6. The director of the technical college system or his or her designee.
7. The chancellor of the University of Wisconsin-Extension or his or her designee.
8. A member chosen jointly by the dean of the College of Agricultural and Life Sciences of the University of Wisconsin-Madison, the dean of the School of Veterinary Medicine of the University of Wisconsin-Madison, the dean of the College of Business, Industry, Life Science, and Agriculture of the University of Wisconsin-Platteville, the dean of the College of Agriculture, Food, and Environmental Sciences of the University of Wisconsin-River Falls, and the dean of the College of Natural Resources of the University of Wisconsin-Stevens Point to represent the colleges and school.
- 8g. A technical college district director appointed by the director of the technical college system.
- 8r. A technical college dean with authority over agricultural programs appointed by the director of the technical college system.
9. The chairpersons of one senate standing committee and one assembly standing committee concerned with education, appointed as are members of standing committees.
10. The chairpersons of one senate standing committee and one assembly standing committee concerned with agriculture, appointed as are members of standing committees.
11. A representative of the Wisconsin Association of Agricultural Educators.
12. Two representatives of general agriculture.
13. Two representatives of agribusiness.
14. A representative of environmental stewardship interests.



15. A representative of businesses related to natural resources.
16. A representative of businesses related to plant agriculture.
17. A representative of landscaping, golf course, greenhouse, floral, and related businesses.
18. A representative of food product and food processing businesses.
19. A representative of businesses related to animal agriculture.
20. A representative of businesses related to **renewable energy**.
21. A representative of agricultural communication interests.
22. A representative of businesses providing engineering, mechanical, electronic, and power services relating to agriculture.
23. A representative of the board of agriculture, trade and consumer protection.
24. A teacher who teaches classes in science, vocational technology, business, math, or a similar field.
25. A school guidance counselor.
26. A school board member.
27. A school district administrator.

(b) A person who is authorized under par. (a) 1. to 7. to appoint a designee may only appoint a designee who is an employee or appointive officer of the person's department or educational institution and who has sufficient authority to deploy department or system resources and directly influence department or educational institution decision making.

(c) The secretary of agriculture, trade and consumer protection shall appoint members of the council under par. (a) 11. to 23. to serve for 3-year terms. A member under par. (a) 11. to 23. may not serve more than 2 consecutive terms on the council.

(cm) The superintendent of public instruction shall appoint members of the council under par. (a) 24. to 27. to serve for 3-year terms. A member under par. (a) 24. to 27. may not serve more than 2 consecutive terms on the council.

**93.33 Agricultural education and workforce development council. (1)**  
DEFINITION. In this section, "council" means the agricultural education and workforce development council.

**(2) FUNCTIONS.** (a) The council shall seek to do all of the following:

1. Increase the hiring and retention of well-qualified employees in industries related to agriculture, food, and natural resources.

2. Promote the coordination of educational systems to develop, train, and retrain employees for current and future careers related to agriculture, food, and natural resources.

3. Develop support for employment in fields related to agriculture, food, and natural resources.

4. Recommend policies and other changes to improve the efficiency of the development and provision of agricultural education across educational systems.

(b) The council shall seek to accomplish the purposes under par. (a) by advising state agencies on matters related to integrating agricultural education and workforce development systems, including all of the following:

1. The coordination of programs.

2. The exchange of information related to educational and workforce development needs.

3. The monitoring and evaluation of programs.

(c) The council shall identify criteria for evaluating the success of its activities, shall evaluate the success of its activities using those criteria, and shall annually report the results of the evaluation in the report under sub. (5).

**(3) COMMITTEES.** (a) The council shall create an executive committee that includes the secretary of agriculture, trade and consumer protection or his or her designee and the state superintendent of public instruction or his or her designee. The council shall select members of the executive committee so that fewer than half of the members of the executive committee are state employees. The executive committee shall provide guidance to the council and to staff that support the functions of the council. The executive committee shall meet between meetings of the council.

(b) The executive committee may create other committees to assist the council in its work. The committee members may include members of the council, employees of the agencies and educational institutions with members on the council, employees of other state agencies, representatives of organizations, and others. The council and the executive committee shall consider the need for committees on the subjects within the scope of the council's functions under sub. (2) and other subjects determined to be appropriate by the council and the executive committee. A committee shall annually provide a written summary of its meetings and activities to the executive committee for review and inclusion in the report under sub. (5).

**(4) ASSISTANCE.** The department of agriculture, trade and consumer protection, the department of public instruction, the department of workforce development, the department of natural resources, the technical college system, the College of Agricultural and Life Sciences of the University of Wisconsin-Madison, the School of Veterinary Medicine of the University of Wisconsin-Madison, the College of Business, Industry, Life Science, and Agriculture of the University of Wisconsin-Platteville, the College of Agriculture, Food, and Environmental

Sciences of the University of Wisconsin-River Falls, and the College of Natural Resources of the University of Wisconsin-Stevens Point may assist the council in performing its functions.

**(4m) MEETINGS.** The council shall meet at least annually and may meet at other times on the call of at least 6 members or on the call of the executive committee. Section 15.09 (3) does not apply to the council.

**(4s) REVIEWS.** (a) The department of public instruction shall annually prepare a review of agricultural education programs in primary and secondary schools.

(b) The technical college system shall annually prepare a review of agricultural education programs in technical colleges.

(c) Each of the individuals specified in s. 15.137 (2) (a) 8. and the chancellor of the University of Wisconsin-Extension, jointly or individually, shall annually prepare a review of agricultural education programs in the University of Wisconsin System, with input from or review by the University of Wisconsin System administration.

**(5) ANNUAL REPORT.** In September of each year, the council shall submit a report to the appropriate standing committees of the legislature as determined by the speaker of the assembly and the president of the senate, under s. 13.172 (3), the governor, the secretary of agriculture, trade and consumer protection, the state superintendent of public instruction, the secretary of workforce development, the secretary of natural resources, the secretary of commerce, the president of the University of Wisconsin System, the director of the technical college system, the chancellor of the University of Wisconsin-Extension, the chancellor of the University of Wisconsin-Madison, the chancellor of the University of Wisconsin-Platteville, the chancellor of the University of Wisconsin-River Falls, and the chancellor of the University of Wisconsin-Stevens Point. The council shall include all of the following in the report:

(a) A summary of the activities of the council during the fiscal year ending on the preceding June 30.

(am) The reviews prepared under sub. (4s).

(b) The council's reaction to the reviews prepared under sub. (4s).

(c) A list of current and anticipated challenges related to agricultural education.

(d) Recommendations of the council, including any recommendations related to the structure of the council or the termination of the council.

(e) Dissents of any council member related to the activities and recommendations of the council.

### **List of Gasohol and Alternative Fuel Refueling Facilities [s. 100.265]**

**100.265 List of gasohol and alternative fuel refueling facilities.** No later than December 31 annually, and at such other times as the department [of agriculture,

trade and consumer protection] determines to be necessary, the department shall publish and transmit to the department of administration a list of all refueling facilities in the state at which **gasohol**, as defined in s. 16.045 (1) (d), or any **alternative fuel**, as defined in s. 16.045 (1) (b), is available. The list shall be organized by location and shall indicate which facilities are open to the public, which types of fuel are available at the facilities and which facilities are limited to use by certain employees or types of vehicles, and shall identify the employees or types of vehicles to which such use is limited.

### **Regulation**

#### **County Zoning, Adjustment Board; Powers of Board [s. 59.694 (7) (d)]**

**59.694 (7) Powers of board.** The [county] board of adjustment shall have all of the following powers:

...

(d) To grant special exceptions and variances for renewable energy resource systems. If the board denies an application for a special exception or variance for such a system, the board shall provide a written statement of its reasons for denying the application. In this paragraph, “**renewable energy** resource system” means a solar energy system, a waste conversion energy system, a wind energy system or any other energy system which relies on a **renewable energy** resources.

#### **Powers and Duties [of the Department of Revenue] Defined; Electronic Assessment Manuals [ s. 73.03 (2a)]**

**73.03 Powers and duties defined.** It shall be the duty of the department of revenue, and it shall have power and authority:

...

**(2a)** To prepare and publish, in electronic form and on the Internet, assessment manuals. The manual shall discuss and illustrate accepted assessment methods, techniques and practices with a view to more nearly uniform and more consistent assessments of property at the local level. The manual shall be amended by the department from time to time to reflect advances in the science of assessment, court decisions concerning assessment practices, costs, and statistical and other information considered valuable to local assessors by the department. The manual shall incorporate standards for the assessment of all types of **renewable energy** resource systems used in this state as soon as such systems are used in sufficient numbers and sufficient data exists to allow the formulation of valid guidelines. The manual shall incorporate standards, which the department of revenue and the state historical society of Wisconsin shall develop, for the assessment of nonhistoric property in historic districts and for the assessment of historic property, including but not limited to property that is being preserved or restored; property that is subject to a protective easement, covenant or other restriction for historic preservation purposes; property that is listed in the national register of historic places in Wisconsin or in this state's register of historic places

and property that is designated as a historic landmark and is subject to restrictions imposed by a municipality or by a landmarks commission. The manual shall incorporate general guidelines about ways to determine whether property is taxable in part under s. 70.1105 and examples of the ways that s. 70.1105 applies in specific situations. The manual shall state that assessors are required to comply with s. 70.32 (1g) and shall suggest procedures for doing so. The manual or a supplement to it shall specify per acre value guidelines for each municipality for various categories of agricultural land based on the income that could be generated from its estimated rental for agricultural use, as defined by rule, and capitalization rates established by rule. The manual shall include guidelines for classifying land as agricultural land, as defined in s. 70.32 (2) (c) 1g., and guidelines for distinguishing between land and improvements to land. The manual shall specify the evidence to be exchanged under s. 70.47 (7) (c) and (16) (c). The cost of the development, preparation, and Internet publication of the manual and of revisions and amendments to it shall be paid from the appropriation under s. 20.566 (2) (b).

## **Alternate Fuel Tax [subch. II of ch. 78]**

**78.39 Definitions.** In this subchapter:

(1) “**Alternate fuels**” means all combustible gases and liquids suitable for generation of power for propulsion of motor vehicles, except that “**alternate fuels**” does not include motor vehicle fuel, as defined in s. 78.005 (13), or general aviation fuel, as defined in s. 78.55 (3).

(2) “**Alternate fuels dealer**” means any person, including the state and any political subdivision of the state, but not including the United States or its agencies except to the extent now or hereafter permitted by the constitution and laws of the United States, in the business of handling **alternate fuels** who delivers any part of the **alternate fuels** into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by that person or to a retailer or user if the supplier reports and pays the tax under s. 78.40 (1).

(3) “**Alternate fuels user**” means the owner or other person, including the state and any political subdivision of the state, but not including the United States or its agencies except to the extent now or hereafter permitted by the constitution and laws of the United States, responsible for the operation of a motor vehicle at the time an **alternate fuel** is placed in the fuel supply tank or tanks of the motor vehicle while the vehicle is within this state.

(4) “Department” means the department of revenue.

(4m) “File” means mail or deliver a document that the department prescribes to the department or, if the department prescribes another method of submitting or another destination, use that other method or submit to that other destination.

(5) “Motor vehicle” has the meaning given in s. 78.005 (12).

(5d) “Pay” has the meaning given in s. 78.005 (13b).

(5m) “Sign” has the meaning given in s. 78.005 (13r).

(6) “Supplier” has the meaning given in s. 78.005 (14).

(7) “Use” means the receipt, delivery, or placing of alternate fuels into the fuel supply tank of a motor vehicle in this state, by an alternate fuels user and the delivery to a retailer or user if the supplier reports and pays the tax under s. 78.40 (1).

**78.40 Tax imposed; collected; exceptions.** (1) IMPOSITION OF TAX AND BY WHOM PAID. An excise tax at the rate determined under ss. 78.405 and 78.407 is imposed on the use of **alternate fuels**. The tax, with respect to all alternate fuel delivered by an **alternate fuel** dealer into supply tanks of motor vehicles in this state, attaches at the time of delivery and shall be collected by the dealer from the alternate fuels user and shall be paid to the department. The tax, with respect to **alternate fuels** acquired by any alternate fuels user other than by delivery by an alternate fuel dealer into a fuel supply tank of a motor vehicle, or of a snowmobile, an all-terrain vehicle that is not registered for private use under s. 23.33 (2) (d) or (2g) or a recreational motorboat, attaches at the time of the use of the fuel and shall be paid to the department by the user. The department may permit any supplier of **alternate fuels** to report and pay to the department the tax on alternate fuels delivered into the storage facility of an **alternate fuels** user or retailer which will be consumed for **alternate fuels** tax purposes or sold at retail.

(2) EXCEPTIONS. No tax is hereby imposed upon or with respect to the following:

(a) **Alternate fuels** used by the United States or its agencies where such use is evidenced by an exemption certificate executed by an authorized representative of the U.S. government or agency thereof certifying that the fuel used is for the exclusive consumption by the U.S. government or its agencies.

(c) **Alternate fuels** used by a common motor carrier as defined in ch. 194, if the carrier certifies to the department that the fuel is for use in the operation of a motor vehicle for the urban mass transportation of passengers as defined in s. 71.38.

**78.405 Annual adjustment of the tax rate.** (1) Before April 1, the department annually shall calculate the rate for the tax under s. 78.40 as follows:

(a) Determine the standard number of British thermal units per gallon generated by gasoline.

(b) Determine the standard number of British thermal units per gallon generated by each kind of alternate fuel that is sold in this state.

(c) For each kind of alternate fuel sold in this state, divide the result under par. (b) by the result under par. (a).

(d) For each kind of **alternate fuel** sold in this state, multiply the result under par. (c), expressed as a decimal, by the rate for the tax under s. 78.01 as adjusted for the current year under s. 78.015.

(2) The rates determined under sub. (1) are effective on the April 1 after they are calculated.

**78.407 Adjustment in 1997.** On November 1, 1997, the rate of the tax imposed under s. 78.40 (1) is increased by one cent.

**78.47 Alternate fuels license.** No person may act as an **alternate fuels** dealer in this state unless the person holds a valid alternate fuels license issued by the department and a valid certificate under s. 73.03 (50). Except for **alternate fuel** which is delivered by an **alternate fuels** dealer into a fuel supply tank of any motor vehicle in this state, no person may use an **alternate fuel** in this state unless the person holds a valid alternate fuel license issued by the department or unless the **alternate fuel** has been delivered by a supplier who is authorized under s. 78.40 (1) to report and pay the tax on behalf of the user or retailer.

**78.48 Application; form; investigation; bond; issue. (1) APPLICATION.** Application for an **alternate fuels** license shall be made upon a form prepared and furnished by the department. It shall be subscribed by the applicant and shall contain the information that the department reasonably requires for the administration of this subchapter. Only a person who holds a valid certificate under s. 73.03 (50) may apply for a license under this subsection.

**(2) INVESTIGATION.** The department shall investigate each applicant under sub. (1). No license may be issued if the department deems that the applicant does not hold a valid certificate under s. 73.03 (50), the application is not filed in good faith, the applicant is not the real party in interest and the license of the real party in interest has been revoked for cause, or other reasonable cause for nonissuance exists.

**(3) HEARING.** Before refusing to issue a license, the department shall grant the applicant a hearing, of which the applicant shall be given at least 5 days' written notice.

**(4) ISSUE.** If the application and the bond under sub. (9), if that bond is required, are approved, the department shall issue a license in as many copies as the licensee has places of business for which an **alternate fuels** license is required.

**(6) TRANSFER FORBIDDEN.** An **alternate fuels** license is not transferable to another person or to another place of business.

**(7) DISPLAY OF LICENSE.** Each license shall be preserved and conspicuously displayed at the place of business for which issued.

**(8) DISCONTINUANCE.** Upon the discontinuance of the business licensed at any place, the copy of the license issued for such place shall be immediately surrendered to the department.

**(9) BOND.** (a) To protect the revenues of this state, the department may require any person liable to the department for the tax imposed by this subchapter to place with it, either before or after an **alternate fuels** license is issued, security in an amount which the department determines. The amount of security required may be increased or decreased as the department deems necessary, but shall not

exceed 3 times the licensee's average monthly liability for taxes under this subchapter, as estimated by the department. If any applicant or licensee fails or refuses to place such security, the department may refuse to issue or may revoke the license. If any taxpayer is delinquent in the payment of taxes imposed by this subchapter, the department may, upon 10 days' notice, recover the taxes, interest, penalties, cost and disbursements from the taxpayer's security placed with the department. No interest shall be paid or allowed by the state to any person for the deposit of the security.

(b) The security required by this subsection may be in the form of a surety bond furnished to the department payable to the state to secure payment of **alternate fuels** taxes, interest and penalties accrued under this subchapter, together with costs and disbursements incurred in the collection thereof. The department shall prescribe the form and contents of the bond.

(c) Section 78.11 (2) to (4), regarding licensees' bonds, also applies to bonds furnished by **alternate fuels** applicants and licensees under this subsection.

**78.49 Reports to department; computation of tax.** (1) **REPORTS OF ALTERNATE FUELS LICENSEES.** (a) For the purpose of determining the amount of liability to the state for the tax under this subchapter, except as provided in par. (b), each **alternate fuels** licensee shall, not later than the last day of each month, file a monthly report for the next preceding month. Such report shall contain a declaration by the licensee that the statements contained therein are accurate and are a true return of the amount of the **alternate fuels** tax due and shall be signed by the licensee or the licensee's duly authorized agent.

(b) The department may allow **alternate fuels** licensees whose tax liability is less than \$500 per quarter to file on a quarterly basis. Quarterly reports shall be filed on or before the last day of the next month following the end of each calendar quarter. The report shall contain the declaration, subscription and information specified in par. (a).

(2) **REPORTS OF OTHERS.** Any person who is not an **alternate fuels** licensee and who uses any **alternate fuel** in this state upon which the tax under this subchapter has not been paid or the liability therefor has not been incurred by any alternate fuels licensee in this state shall file a report and pay the tax on such fuel and shall be subject to this subchapter in the same manner as are **alternate fuels** licensees.

(3) **COMPUTATION OF TAX.** Each **alternate fuels** licensee at the time of making the monthly or quarterly report shall compute and pay to the department the full amount of the **alternate fuels** tax for the next preceding month or quarter. The amount of the tax shall be computed as follows: the number of gallons of **alternate fuels** delivered or placed by the licensee into the fuel supply tanks of motor vehicles or sold to a retailer if the supplier reports and pays the tax under s. 78.40 (1) shall be multiplied by the amount provided in s. 78.40 (1) and the resulting figure shall be the amount of the **alternate fuels** tax for the next preceding month or quarter.

**78.50 Notice by alternate fuels licensee of cessation, sale or transfer of business; final report.** (1) **NOTICE REQUIRED.** Whenever any **alternate fuels**



licensee ceases to perform any of the acts for which an **alternate fuels** license is required, the licensee shall notify the department in writing. That notice shall give the date of cessation, and in the event of sale or transfer of the business, the name and address of the purchaser or transferee thereof.

(2) **FINAL REPORT.** Every **alternate fuels** licensee shall, upon such cessation, sale or transfer of the business or upon the cancellation or revocation of a license, make a report as required in s. 78.49 and pay all **alternate fuels** taxes, interest and penalties due the state. Such payment shall be made to the department.

**78.51 Theft of alternate fuels tax moneys.** All sums paid by a purchaser of an **alternate fuel** to an **alternate fuels** dealer as alternate fuels taxes which have not been paid to the state are public moneys, the property of the state of Wisconsin. Any **alternate fuels** dealer who fails or refuses to pay over to the state the tax on an **alternate fuel** at the time required in this chapter, or who fraudulently withholds or appropriates or otherwise uses such moneys or any portion thereof belonging to the state is guilty of theft and shall be punished as provided by law for the crime of theft, irrespective of whether that **alternate fuels** dealer has or claims to have any interest in such moneys so received by that dealer.

**78.52 Separate fuel supply tanks required.** Every motor vehicle operated by **alternate fuel** shall be equipped with an **alternate fuel** supply tank separate from and in no way connected to any cargo tank on or attached to such motor vehicle.

**78.53 Presumption.** For the purpose of enforcing this subchapter, it shall be prima facie presumed that all **alternate fuel** received by an **alternate fuels** dealer or an alternate fuels user into storage and dispensing equipment designed to fuel motor vehicles is to be transferred or delivered by the dealer or user into the supply tanks of motor vehicles.

## **Oil Inspection [ch. 168]**

**168.01 Definitions.** In this chapter:

(1) “Department” means the department of commerce.

(2) “Supplier” includes a person who imports, or acquires immediately upon import, petroleum products by pipeline or marine vessel from a state, territory or possession of the United States or from a foreign country into a terminal and who is registered under 26 USC 4101 for tax-free transactions in gasoline. “Supplier” also includes a person who produces in this state; or imports into a terminal or bulk plant; or acquires immediately upon import by truck, railcar or barge into a terminal; **alcohol** or **alcohol** derivative products. “Supplier” also includes a person who produces, manufactures or refines petroleum products in this state. “Supplier” also includes a person who acquires petroleum products pursuant to an industry terminal exchange agreement or by a 2-party exchange under section 4105 of the Internal Revenue Code. “Supplier” does not include a retail dealer or wholesaler who merely blends **alcohol** with gasoline before the sale or distribution of the product and does not include a terminal operator who merely handles in a terminal petroleum products consigned to the terminal operator.

**168.02 Inspector defined.** “Inspector” means a duly authorized petroleum products inspector of the department.

**168.03 Petroleum products defined.** “Petroleum products” means **gasoline, gasoline-alcohol fuel** blends, kerosene, fuel oil, burner oil and diesel fuel.

**168.04 Standards.** (1) The department by rule shall prescribe minimum product grade specifications for gasoline, automotive gasoline, **gasoline-alcohol fuel blends**, reformulated gasoline, as defined in s. 285.37 (1), and kerosene and may prescribe product grade specifications for aviation gasoline, fuel oils, and diesel fuels.

(2) (a) Except as provided in par. (b), the rules required under sub. (1) shall prohibit gasoline, automotive gasoline, **gasoline-alcohol fuel blends**, and reformulated gasoline, as defined in s. 285.37 (1), beginning on August 1, 2004, from containing more than 0.5%, by volume, of methyl tertiary-butyl ether.

(b) The rules required under sub. (1) shall not prohibit racing fuel used at racing events or in preparation for racing events from containing any amount of methyl tertiary-butyl ether.

(3) Except as otherwise provided in this section, rules promulgated under this section shall be in conformity with nationally recognized standards, specifications, and classifications, such as those published by the American Society for Testing and Materials, the Society of Automotive Engineers, and the U.S. Environmental Protection Agency. The department may not promulgate or enforce a rule prohibiting the placement of additional information on the dispensing device.

**168.05 Inspection of petroleum products.** (1) No petroleum product imported into and received in this state or received from a manufacturer or refiner or from a marine or pipeline terminal within this state may be unloaded from its original container except as provided under sub. (5), sold, offered for sale or used until a true sample of not less than 8 ounces is taken as provided in this chapter. This subsection does not apply if the department has previously inspected the petroleum product at the refinery, marine or pipeline terminal. Each person importing or receiving a petroleum product which has not been previously inspected shall notify the inspector in the person's district of the receipt thereof, and the inspector shall take a sample of the petroleum product.

(2) If such petroleum product is received on a regular business day between the hours of 7:45 a.m. and 4:30 p.m., such notice shall be given forthwith upon receipt of such petroleum product. If received at any other time, such notice shall be given between the next succeeding hours of 7:45 a.m. and 10 a.m. of a regular business day. Provided, that if any petroleum product is received on Saturday, Sunday, or any legal holiday, designated in s. 995.20, such notice shall be given on the next following regular business day between the hours of 7:45 a.m. and 10 a.m.

(3) If the inspector does not, upon proper notice, after a reasonable length of time, take such sample, the recipient of such petroleum product may, in the presence of a disinterested witness, open such original container and take a true

sample of not less than 8 ounces of the contents thereof. Such sample shall be immediately placed in a clean container which is in compliance with s. 168.11 (2) and (3) and tightly closed. The recipient shall record upon a label attached to such container the means of conveyance, the type of original container, the product name and quantity of the contents thereof, and such other information as the department reasonably requires for the proper identification of such shipment. Such sample thus taken shall be held for delivery, upon demand, to the inspector. After such sample is taken such petroleum product may be unloaded, sold, offered for sale or used the same as if sampled by the inspector.

(4) For the purpose of this section, the following shall constitute a reasonable length of time in which an inspector shall take the sample herein required: If notice is properly given to an inspector before the hour of 11:45 a.m., the inspector shall take such sample before the hour of 4:30 p.m. of the day; if notice is properly given between the hours of 11:45 a.m. and 4:30 p.m., such sample shall be taken before the hour of 11:45 a.m. of the next following regular business day. Saturdays, Sundays, and legal holidays, designated in s. 995.20, shall not be considered regular business days.

(5) The department may permit a recipient to unload such petroleum product prior to inspection if the recipient submits an application setting forth good and sufficient reasons, and may unload ships or boats without inspection if an emergency is declared by the coast guard. A recipient must notify the department as required by sub. (2) and the department shall revoke permission granted under this subsection if the recipient violates sub. (2).

**168.06 Powers.** (1) For the purposes of administering this chapter, inspectors may take samples of gasoline **gasoline-alcohol fuel blends**, kerosene, other refined oils, fuel oils and petroleum distillates for tests and make inspections at any points within or without this state, and may open any original container containing gasoline, **gasoline-alcohol fuel blends**, kerosene, other refined oils, fuel oils and petroleum distillates and take a true sample of not less than 8 ounces of the contents thereof, even though the original containers may still be in the possession of a common or contract carrier, provided the opening and sampling does not unduly inconvenience or hamper the transportation of the products. After the original containers are opened and sampled the same shall be resealed with seals furnished by the department for such purposes. The authority conferred by this section shall be in addition to, and not in limitation of, any of the provisions of s. 168.05.

(2) If any petroleum product is emptied or transferred into any container in which is contained any other grade of petroleum product, then the entire commingling shall be deemed uninspected and a sample of such commingled petroleum product shall be taken before such commingled petroleum product is removed from such container, sold, offered for sale or used.

(3) Notice of such commingling of any petroleum products shall be given in the same manner and subject to the same conditions as notice of the receipts of petroleum products as provided in s. 168.05. The sample of such commingled petroleum products shall be taken by the inspector within a reasonable length of time, as defined and set forth in s. 168.05, after notice. If such inspector does not take such sample within such time, the commingler shall take a true sample of

not less than 8 ounces of the commingled petroleum products. The taking, sealing and holding of such sample by the commingler shall, so far as applicable, be governed by the provisions of s. 168.05 relating to the same by a person receiving a petroleum product.

**168.07 Inspections; requirements.** (1) The inspector shall inspect each sample of petroleum product and if the inspector finds that it meets the minimum specifications prescribed by the department, the inspector shall issue an inspection certificate, except that inspections for particular grade specifications shall be at the discretion of the department. If an inspector believes that a product has been misidentified, an inspection shall be performed. If the inspector finds that the petroleum product does not meet the minimum specifications prescribed by the department, the inspector shall notify the person for whom the inspection was made. After such notice, no person may sell or use the product in this state or remove it from storage as long as it fails to meet the minimum specifications prescribed by the department or until satisfactory disposition is approved by the inspector. Any transporter, wholesaler or distributor of petroleum products who delivers or causes to be delivered a petroleum product that fails to meet the minimum specifications prescribed by the department shall, at the direction of the department, remove the petroleum product and dispose of it in a manner approved by the department. The department may contract for the performance of testing conducted under this subsection.

(2) Inspections under sub. (1) shall be conducted, so far as applicable, in accordance with the methods outlined in the latest revision of the ASTM Book of Standards of the American Society for Testing and Materials.

**168.08 Records.** The department shall keep a record of each inspection made, showing:

(1) Time and place of each.

(6) Name and address of person for whom inspection is made.

**168.09 Authority to enter.** Any inspector may enter in or upon the premises of any manufacturer, vendor, dealer or user of gasoline, **gasoline-alcohol fuel blends**, kerosene, other refined oils, fuel oils and petroleum distillates, during regular business hours to determine whether any petroleum product intended for sale or use has not been sampled and inspected in accordance with this chapter.

**168.10 Access to records.** Every agent or employee of any railroad company or other transportation company and every person transporting gasoline, **gasoline-alcohol fuel blends**, kerosene, other refined oils, fuel oils and petroleum distillates, having the custody of books or records showing the shipment or receipt of gasoline, **gasoline-alcohol fuel blends**, kerosene, or other refined oils, fuel oils and petroleum distillates shall give and permit the department and the inspectors; and, in regard to the fee under s. 168.12 (1), shall give and permit the department of revenue; free access to such books and records for the purpose of determining the amount of petroleum products shipped and received. All clerks, bookkeepers, express agents, railroad agents or officials, employees, or common carriers, or other persons shall provide the department and the inspectors; and, in regard to the fee under s. 168.12 (1), shall provide the department of revenue; all

information in their possession when so requested in tracing, finding, sampling and inspecting such shipments.

**168.11 Identifications. (1)** (a) Except as provided in par. (b), all devices used to draw petroleum products from storage containers at filling stations, garages or other places where petroleum products are sold or offered for sale shall be marked or labeled in a conspicuous place and in a conspicuous manner with the name and the grades of the petroleum product being dispensed.

(b) 1. A device that dispenses a **gasoline-ethanol fuel blend** for sale at retail shall be marked or labeled with the percentage of **ethanol**, using one-half inch high letters with a stroke of not less than one-eighth inch in width, at all times when the product is offered for sale.

2. A device that dispenses, for sale at retail, a reformulated gasoline, as defined in s. 285.37 (1), that contains an oxygenate other than **ethanol** shall be marked or labeled with the identity of the oxygenate at all times when the product is offered for sale. The label shall identify the oxygenate or oxygenates in the manner specified by the department by rule.

3. A label under this paragraph shall be on the front or side of the upper half of the dispensing device and shall be conspicuous and legible to a customer when viewed from the driver's seat of a motor vehicle that is located within 6 feet of the dispensing device. The device may also be marked or labeled with any product grade specifications prescribed under s. 168.04.

(2) No person may deliver, place, receive or store in any visible container any gasoline; any product of petroleum, regardless of name, meeting the gasoline specifications prescribed by the department under s. 168.04; or any product of petroleum commonly or commercially used as a fuel in a spark-ignition internal combustion engine or as a fuel for any appliance or device if such product of petroleum has a flash point of less than 1005 F. when tested in the Tagliabue closed cup tester unless the container is constructed of sound metal or of equally sound nonflammable material meeting the requirements of the department's flammable and combustible liquids code; is substantially a bright red color; and has the common name of the product clearly labeled or painted on it. These requirements do not apply to:

(a) The fuel supply tank permanently connected to an internal combustion engine;

(b) The fuel supply tank which is structurally a part of any appliance or device consuming the fuel;

(c) The first use of any container of one gallon or less originally filled by a manufacturer or packager when the container complies with the packaging and labeling requirements of the federal government and its agencies; or

(d) Containers of 275 gallons capacity or more. This provision does not exempt such containers from the identification requirements specified in rules promulgated by the department.

(3) Except for containers referred to in sub. (2) (a), (b) and (c) no person may deliver, place, receive or store any kerosene, diesel fuel or burner oil, or a like product of petroleum which has a flash point of 1005 F. or more when tested in the Tagliabue closed cup tester, in any visible container which is in any manner colored red.

(4) No person may use interchangeably any pipeline, hose, pump or metering device to dispense gasoline, or a like product of petroleum which has a flash point of less than 1005 F. when tested in the Tagliabue closed cup tester, and to dispense kerosene, diesel fuel or burner fuel oils, or a like product of petroleum which has a flash point of 1005 F. or more when tested in the Tagliabue closed cup tester, unless the pipeline, hose, pump or metering device has been sufficiently flushed and cleaned before the interchanged use to eliminate any contamination of products due to the interchanged use.

**168.12 Fees for oil inspection.** (1) Except as provided in subs. (1g) and (1r), there is imposed a petroleum inspection fee at the rate of 2 cents per gallon on all petroleum products that are received by a supplier for sale in this state or for sale for export to this state. The department of revenue shall determine when a petroleum product is received under this subsection in the same manner that it determines under s. 78.07 when motor vehicle fuel is received. The fee shall be paid under s. 168.125 and shall be based on the number of gallons reported under s. 168.125.

(1g) The fee under sub. (1) is not imposed on petroleum products that are shipped from storage at a refinery, marine terminal, pipeline terminal, pipeline tank farm or place of manufacture to a person for storage at another refinery, marine terminal, pipeline terminal, pipeline tank farm or place of manufacture.

(1r) The fee under sub. (1) is not imposed on petroleum products exported from this state by a person who is licensed under sub. (7) or s. 78.09.

(5) No fee may be charged on a commingled or blended petroleum product when such commingling or blending is approved by the inspector as a satisfactory means of disposing of contaminated or substandard products.

(6) (a) Any person who purchases in this state general aviation fuel, as defined in s. 78.55 (3), from a supplier is eligible for an allowance of 2 cents for each gallon of general aviation fuel purchased in excess of 1,000,000 gallons per month. A person who purchases general aviation fuel for resale is not eligible for the allowance.

(b) To receive an allowance, an eligible purchaser under par. (a) shall complete a claim upon a form that the department of revenue prescribes and furnishes and file the claim with the department of revenue not later than 12 months after the date of purchase of the general aviation fuel.

(c) The department of revenue shall investigate the correctness and veracity of the representations in the claim and may require a claimant to submit records to substantiate the claim. The department of revenue shall either allow or deny a claim under this subsection not later than 60 days after the filing of the claim. If the department of revenue allows the claim, it shall pay the claimant the amount

allowed from the moneys appropriated under s. 20.855 (4) (r). If the department of revenue does not pay the allowance by the 90th day after the date on which the purchaser files the claim, the department of revenue shall also pay interest on the unpaid claim beginning on that day, at the rate of 9% per year, from the moneys appropriated under s. 20.855 (4) (r).

(d) If a purchaser negligently files a claim under this subsection that is inaccurate in whole or in part, the department of revenue shall:

1. If the department of revenue has not paid the claim but has allowed a portion of the claim, reduce the allowance by 25%.

2. If the department of revenue has paid the claim, require the purchaser to refund to the department of revenue that portion of the amount paid under par. (c) to which the purchaser is not entitled and impose a penalty on the purchaser equal to 25% of the allowance, plus interest on the sum of the unpaid penalty and the amount required to be refunded, accruing from the date that the penalty is imposed, at the rate of 12% per year.

(e) If a purchaser files a fraudulent claim under this subsection, the department of revenue shall:

1. If the claim has not been paid and the department of revenue allows no portion of the claim, impose a penalty on the purchaser equal to 50% of the amount claimed by the purchaser, plus interest on the unpaid penalty, accruing from the date that the penalty is imposed, at the rate of 12% per year.

2. If the claim has not been paid and the department of revenue allows a portion of the claim, reduce the allowance by 50%.

3. If the claim has been paid, require the purchaser to refund to the department of revenue that portion of the amount paid under par. (c) that the department of revenue determines was fraudulently obtained and impose a penalty on the purchaser equal to 50% of the amount claimed by the purchaser, plus interest on the sum of the unpaid penalty and the amount required to be refunded, accruing from the date that the penalty is imposed, at the rate of 12% per year.

(f) Any person who knowingly signs or verifies a fraudulent claim under par. (e) may be fined not more than \$500 or imprisoned for not more than 30 days or both.

(g) Any person who knowingly aids, abets or assists another in making a fraudulent claim under par. (e) or in signing or verifying a fraudulent claim under par. (f) may be fined not more than \$500 or imprisoned for not more than 30 days or both.

(h) With respect to imposing a penalty and requiring a refund under par. (d), the department of revenue shall give notice to the purchaser within 4 years after the date that the claim was filed. The department of revenue may impose a penalty and require a refund under par. (e) when the department of revenue discovers the fraud committed.

(7) No person may ship petroleum products into this state unless that person has a valid certificate under s. 73.03 (50) and either has a license under s. 78.09 or obtains a petroleum products shipper license from the department of revenue by filing with that department an application prescribed and furnished by that department and verified by the owner of the business if the owner is an individual, by a member if the owner is an unincorporated association, by a partner if the owner is a partnership or by the president and secretary if the owner is a corporation.

(8) (a) To protect the revenues of this state, the department of revenue may require any person who is liable to that department for the fee under sub. (1) to place with it security in the amount that that department determines. The department of revenue may increase or decrease the amount of the security, but that amount may not exceed 3 times the person's average monthly liability for the fee under sub. (1) as estimated by that department. If any person fails to provide that security, the department of revenue may refuse to issue a license under sub. (7) or s. 78.09 or may revoke the person's license under sub. (7) or s. 78.09. If any taxpayer is delinquent in the payment of the fee under sub. (1), the department of revenue may, upon 10 days' notice, recover the fee, interest, penalties, costs and disbursements from the person's security. The department of revenue may not pay interest on any security deposit.

(b) The security required under par. (a) may be a surety bond furnished to the department of revenue and payable to this state. The department of revenue shall prescribe the form and contents of the bond.

(c) The surety of a bond under par. (b) may conditionally cancel the bond by filing written notice with the person who is liable for the fee under sub. (1) and with the department of revenue. A surety who files that notice is not discharged from any liability that has accrued or from any liability that accrues within 60 days after the filing. If the person who is liable for the fee under sub. (1) does not, within 60 days after receiving the notice, file with the department of revenue a new bond that is satisfactory to that department, that department shall revoke the person's license under sub. (7) or s. 78.09. If the person furnishes a new bond, the department of revenue shall cancel and surrender the old bond when it is satisfied that all liability under the old bond has been discharged.

(d) If the liability on the bond is discharged or reduced or if the department of revenue determines that the bond is insufficient, that department shall require additional surety or new bonds. If any person who is liable for the fee under sub. (1) fails to file that additional bond within 5 days after the department of revenue provides written notice, that person's license under sub. (7) or s. 78.09 is revoked.

(e) Suspension, revocation or cancellation of a license under sub. (7) or s. 78.09, partial recovery on the bond or execution of a new bond does not affect the validity of a bond under this subsection.

(9) Sections 78.65 to 78.74 and 78.79 to 78.81 as they apply to the taxes under ch. 78 apply to the fee under sub. (1).

**168.125 Reports; payment.** Persons who are liable for the fee under this chapter shall state the number of gallons of petroleum products on which the fee



is due and the amount of their liability for the fee in the reports under s. 78.12 (1) to (3). The requirements for payment of the motor vehicle fuel tax under s. 78.12 (5) apply to the fee under this chapter.

**168.13 Required records.** Every person receiving petroleum products in this state shall keep books and records of all petroleum products so received, together with bills of lading, waybills and other pertinent documents. Such books and records and other papers and documents shall, at all times during business hours of the day, be subject to inspection by the department and its inspectors, and are subject to inspection by the department of revenue in regard to the fee under s. 168.12 (1). Such books, records and other papers and documents shall be preserved for not less than 4 years, unless the department, in writing, authorizes their destruction or disposal at an earlier date.

**168.14 Misbranding. (1)** It is unlawful for any person to represent, advertise, promote for sale, offer for sale or sell any lubricating oil which is in part or wholly derived from previously used lubricating oil unless such representation, advertisement, sales promotion and the container or item of equipment through which such previously used lubricating oil is shipped, stored, offered for sale or sold, clearly and conspicuously identifies to the public that such lubricating oil has been previously used. The identification shall contain appropriate and descriptive words such as “Reclaimed used lubricating oil,” “Rerefined used lubricating oil,” “Recleaned used lubricating oil” or “Reconditioned used lubricating oil”.

**(2)** No person may receive, unload, use, sell or offer for sale in this state, any gasoline, **gasoline-alcohol fuel blends**, kerosene, fuel oils, diesel fuels or other petroleum distillates which the person knows, or reasonably should know, is misidentified as to name or grade. **Gasoline-ethanol blends** that are identified in compliance with s. 168.11 when sold at retail are correctly identified as to name. Biodiesel blends that are identified in compliance with sub. (2m) (c) 4. when sold at retail are correctly identified as to name.

**(2m) (a) “Biodiesel fuel”** means a fuel that is comprised of monoalkyl esters of long chain fatty acids derived from vegetable oils or animal fats.

**(b)** No person may represent, advertise, label, or otherwise promote for sale a fuel as being **biodiesel fuel** unless the fuel meets all of the following requirements:

1. The fuel is registered as **biodiesel fuel** by a manufacturer under 40 CFR Part 79.
2. The fuel is pure **biodiesel fuel**, is identified as such with the alphanumeric B100, and does not contain any petroleum product, any additive, or other foreign material.
3. The fuel meets all of the applicable requirements of the American Society for Testing and Materials.

(c) No person may represent, advertise, label, or otherwise promote for sale a fuel as being a blend of **biodiesel** and petroleum-based fuel unless the fuel meets all of the following requirements:

1. The volume percentage of the **biodiesel** fuel to the petroleum-based fuel is at least 2 percent.
2. The fuel is blended with petroleum-based diesel fuel.
3. The fuel meets all of the applicable requirements of the American Society for Testing and Materials.
4. The volume percentage under subd. 1. is disclosed to the purchaser and is identified by use of the alphanumeric Bxx, with a number replacing the xx in the alphanumeric and with that number representing the volume percentage of **biodiesel** fuel in the **biodiesel** fuel blend.

(3) A person who sells a **gasoline-ethanol fuel blend** to a person selling or offering to sell it at wholesale or retail shall provide information before the sale on the **ethanol** content of the fuel blend to the person selling or offering to sell it and shall provide written verification of the **ethanol** content at delivery of the fuel blend.

**168.15 Penalty.** Every person who violates any provision of this chapter that is not related to the fee under s. 168.12 (1) shall forfeit not less than \$10 nor more than \$100 for each violation. Each day a person fails to comply with any provision of this chapter is a separate violation.

**168.16 Duties of department.** (1) The department shall enforce this chapter. Inspection districts shall be defined and numbered by the department.

(2) Any accident or explosion involving products of petroleum which comes to the knowledge of the department shall be investigated to determine whether or not there has been a violation of this chapter.

(3) The department may, upon request of state agencies or local authorities, assist in the investigation of hazardous situations involving suspected or known products of petroleum.

(4) The department may promulgate reasonable rules relating to the administration and enforcement of this chapter.

**168.17 Attorney general and district attorney to prosecute.** Upon request of the department, the attorney general or proper district attorney shall prosecute any action to enforce this chapter except the fee that is imposed under s. 168.12 (1).

### **Exemption for Certain Alcohol Fuel Production Systems [from Water Pollutant Discharge Elimination System (WPDES) Permits] [s. 283.61]**

**283.61 Exemption for certain alcohol fuel production systems.** (1)  
DEFINITIONS. As used in this section:

(a) “Distillate waste product” has the meaning designated under s. 289.44 (1) (a).

(b) “Environmentally sound storage facility” has the meaning designated under s. 289.44 (1) (b).

(c) “Private **alcohol fuel** production system” has the meaning designated under s. 289.44 (1) (c).

(2) EXEMPTION. No [WPDES] permit is required under this chapter for the owner of a private **alcohol fuel** production system to discharge or dispose of any distillate waste product if the waste product is stored in an environmentally sound storage facility and disposed of using an environmentally safe land spreading technique and the discharge or disposal is confined to the property of the owner.

### **Clean Fuel Fleet Program [s. 285.35]**

**285.35 Clean fuel fleet program. (1) DEFINITIONS.** In this section:

(a) “Clean **alternative fuel**” has the meaning given in 42 USC 7581 (2).

(b) “Clean-fuel vehicle” has the meaning given in 42 USC 7581 (7).

(c) “Covered fleet” has the meaning given in 42 USC 7581 (5).

(2) AREAS. (a) The department [of natural resources] shall issue documents that describe the areas of the state in which clean-fuel vehicle programs are required under 42 USC 7511a (c) (4) (A).

(b) The department may, by rule, determine areas of the state, other than areas described under par. (a), in which the department will require clean-fuel vehicle programs. The department may not require a clean-fuel vehicle program in an area unless that requirement is authorized under s. 285.11 (6).

(c) Notwithstanding ss. 227.01 (13) and 227.10 (1) a document issued under par. (a) is not a rule. A document issued under par. (a) may be reviewed under ss. 227.42 and 227.52.

(3) REQUIREMENTS. The department shall promulgate by rule requirements for the use of clean-fuel vehicles and clean **alternative fuels** by operators of covered fleets in areas identified under sub. (2) (a) or (b). The rules shall be in accordance with the requirements applicable to covered fleets under 42 USC 7586 and regulations promulgated under that provision.

### **Registration of Early Emission Reductions [s. 285.78]**

**285.78 Registration of early emission reductions. (1)** In this section:

(a) “Carbon reserve” means any system that takes in and stores more carbon from the atmosphere than it releases to the atmosphere.

(b) “Fine particulate matter” means solid or liquid particles with a diameter less than or equal to 2.5 micrometers or emissions that are precursors to solid or liquid particles with a diameter less than or equal to 2.5 micrometers.

(c) “Greenhouse gas” means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride or any other gas that traps heat in the atmosphere.

(2) (a) The department [of natural resources] shall establish and operate a system under which the department registers reductions in emissions of greenhouse gases if the reductions are made before the reductions are required by law. Under the system, the department may register carbon sequestration from the creation or preservation of carbon reserves and may register avoided emissions resulting from energy efficiency measures and from the use of **renewable energy** sources. Under the system, the department may not register a reduction in emissions of greenhouse gases if the reduction was made before January 1, 1991.

(b) The department may establish and operate systems under which the department registers reductions in emissions of fine particulate matter, mercury or other air contaminants identified by the department if the reductions are made before the reductions are required by law.

(c) The department may verify and quantify, or require the verification and quantification of, emission reductions that a person seeks to register under par. (a) or (b).

(d) Registration of emission reductions under this section is voluntary.

(3) (a) The department shall promulgate rules for the system under sub. (2) (a). In promulgating the rules, the department shall make the system as consistent as possible with other state, federal and international programs designed to reduce emissions of greenhouse gases.

(b) The department shall promulgate rules for any system that the department establishes under sub. (2) (b). In promulgating the rules, the department shall make the system as consistent as possible with other state, federal and international programs designed to reduce emissions of the substances covered by the system.

#### **Exemption for Certain Alcohol Fuel Production Systems [from Solid Waste Facilities Permits, Licenses, and Plan Approvals] [s. 289.44]**

**289.44 Exemption for certain alcohol fuel production systems. (1)**  
DEFINITIONS. As used in this section:

(a) “Distillate waste product” means solid, semisolid or liquid by-products or wastes from the distillation or functionally equivalent process of an **alcohol fuel** production system.

(b) “Environmentally sound storage facility” means a facility, including a holding lagoon, which is used to store distillate waste products so that no waste products from the facility enter or leach into the waters of the state.

(c) “Private **alcohol fuel** production system” means an **alcohol fuel** production system from which no alcohol is sold and from which all the alcohol is used as a fuel by the owner.

(2) EXEMPTION. No [solid waste facility] permit, license or plan approval is required under this chapter for the owner of a private **alcohol fuel** production system to establish, construct or operate a system for the treatment, storage or disposal of distillate waste products if the distillate waste product is stored in an environmentally sound storage facility and disposed of using an environmentally safe land spreading technique and the storage, treatment or disposal is confined to the property of the owner.

JES:ty