



Biofuels Statutory Citations

STATE OF OREGON

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

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

Formerly cited as OR ST § 469.185

469B.130. Definitions

As used in ORS 469B.130 to [469B.169](#) and [469B.171](#):

- (1) “Alternative fuel vehicle” means a vehicle as defined by the Director of the State Department of Energy by rule that is used primarily in connection with the conduct of a trade or business and that is manufactured or modified to use an alternative fuel, including but not limited to electricity, ethanol, methanol, gasohol and propane or natural gas, regardless of energy consumption savings.
- (2) “Car sharing facility” means the expenses of operating a car sharing program, including but not limited to the fair market value of parking spaces used to store the fleet of cars available for a car sharing program, but does not include the costs of the fleet of cars.
- (3) “Car sharing program” means a program in which drivers pay to become members in order to have joint access to a fleet of cars from a common parking area on an hourly basis. “Car sharing program” does not include operations conducted by car rental agencies.
- (4) “Cost” means the capital costs and expenses necessarily incurred in the erection, construction, installation and acquisition of a facility, including site development costs and expenses for a sustainable building practices facility.
- (5) “Energy facility” means any capital investment for which the first year energy savings yields a simple payback period of greater than one year. An energy facility includes:
 - (a) Any land, structure, building, installation, excavation, machinery, equipment or device, or any addition to, reconstruction of or improvement of, land or an existing structure, building, installation, excavation, machinery, equipment or device necessarily erected, constructed, installed or acquired by any person in connection with the conduct of a trade or business and actually used in the processing or utilization of renewable energy resources to:
 - (A) Replace a substantial part or all of an existing use of electricity, petroleum or natural gas;

(B) Provide the initial use of energy where electricity, petroleum or natural gas would have been used;

(C) Generate electricity to replace an existing source of electricity or to provide a new source of electricity for sale by or use in the trade or business;

(D) Perform a process that obtains energy resources from material that would otherwise be solid waste as defined in [ORS 459.005](#); or

(E) Manufacture or distribute alternative fuels, including but not limited to electricity, ethanol, methanol, gasohol or biodiesel.

(b) Any acquisition of, addition to, reconstruction of or improvement of land or an existing structure, building, installation, excavation, machinery, equipment or device necessarily erected, constructed, installed or acquired by any person in connection with the conduct of a trade or business in order to substantially reduce the consumption of purchased energy.

(c) A necessary feature of a new commercial building or multiple unit dwelling, as dwelling is defined by [ORS 469B.100](#), that causes that building or dwelling to exceed an energy performance standard in the state building code.

(d) The replacement of an electric motor with another electric motor that substantially reduces the consumption of electricity.

(6) “Facility” means an energy facility, recycling facility, transportation facility, car sharing facility, sustainable building practices facility, alternative fuel vehicle or facilities necessary to operate alternative fuel vehicles, including but not limited to an alternative fuel vehicle refueling station, a high-efficiency combined heat and power facility, a high-performance home or a homebuilder-installed renewable energy system.

(7) “High-efficiency combined heat and power facility” means a device or equipment that simultaneously produces heat and electricity from a single source of fuel and that meets the criteria established for a high-efficiency combined heat and power facility under [ORS 469B.139](#).

(8) “High-performance home” means a new single-family dwelling that:

(a) Is designed and constructed to reduce net purchased energy through use of both energy efficiency and on-site renewable energy resources; and

(b) Meets the criteria established for a high-performance home under [ORS 469B.139](#).

(9) “Homebuilder-installed renewable energy system” means a renewable energy resource system that:

(a) Meets the criteria established for a renewable energy resource system under [ORS 469B.139](#); and

(b) Is installed in a new single-family dwelling by, or at the direction of, the homebuilder constructing

the dwelling.

(10) “Qualified transit pass contract” means a purchase agreement entered into between a transportation provider and a person, the terms of which obligate the person to purchase transit passes on behalf or for the benefit of employees, students, patients or other individuals over a specified period of time.

(11) “Recycling facility” means equipment used by a trade or business solely for recycling:

(a) Including:

(A) Equipment used solely for hauling and refining used oil;

(B) New vehicles or modifications to existing vehicles used solely to transport used recyclable materials that cannot be used further in their present form or location such as glass, metal, paper, aluminum, rubber and plastic;

(C) Trailers, racks or bins that are used for hauling used recyclable materials and are added to or attached to existing waste collection vehicles; and

(D) Any equipment used solely for processing recyclable materials such as balers, flatteners, crushers, separators and scales.

(b) But not including equipment used for transporting or processing scrap materials that are recycled as a part of the normal operation of a trade or business as defined by the director.

(12)(a) “Renewable energy resource” includes, but is not limited to:

(A) Straw, forest slash, wood waste or other wastes from farm or forest land, nonpetroleum plant or animal based biomass, ocean wave energy, solar energy, wind power, water power or geothermal energy;

(B) A hydroelectric generating facility that obtains all applicable permits and complies with all state and federal statutory requirements for the protection of fish and wildlife and that:

(i) Does not exceed 10 megawatts of installed capacity; or

(ii) Qualifies as a research, development or demonstration facility; or

(C) A renewable energy storage device as defined by the director by rule.

(b) “Renewable energy resource” does not include a hydroelectric generating facility that is not described in paragraph (a) of this subsection.

(13) “Sustainable building practices facility” means a commercial building in which building practices that reduce the amount of energy, water or other resources needed for construction and operation of the building are used. “Sustainable building practices facility” may be further defined by the State Department of Energy by rule, including rules that establish traditional building practice baselines in

energy, water or other resource usage for comparative purposes for use in determining whether a facility is a sustainable building practices facility.

(14) “Transportation facility” means a transportation project that reduces energy use during commuting to and from work or school, during work-related travel, or during travel to obtain medical or other services, and may be further defined by the department by rule. “Transportation facility” includes, but is not limited to:

- (a) A qualified transit pass contract or a transportation services contract; or
- (b) The purchase of efficient truck technology and related truck trailers, as defined in [ORS 801.580](#), for commercial motor vehicles, as defined in [ORS 801.208](#), that are registered under [ORS 803.420](#), or for commercial motor vehicles that are proportionally registered under [ORS 826.009](#) or [826.011](#).

(15) “Transportation provider” means a public, private or nonprofit entity that provides transportation services to members of the public.

(16) “Transportation services contract” means a contract that is related to a transportation facility, and may be further defined by the department by rule.

Credits Renumbered from 469.185 in 2011 by the Legislative Counsel.

Formerly cited as OR ST § 469.190

469B.133. Public policy

In the interest of the public health, safety and welfare, it is the policy of the State of Oregon to encourage the conservation of electricity, petroleum and natural gas by providing tax relief for Oregon facilities that conserve energy resources or meet energy requirements through the use of renewable resources.

Credits Renumbered from 469.190 in 2011 by the Legislative Counsel.

Formerly cited as OR ST § 469.195

469B.136. Priorities and criteria determinations

(1) In determining the eligibility of any facility for tax credits, preference shall be given to those projects that:

- (a) Provide energy savings for real or personal property within the state inhabited as the principal residence of a tenant, including:
 - (A) Nonowner occupied single family dwellings; and
 - (B) Multiple unit residential housing; or

(b) Provide long-term energy savings from the use of renewable resources or conservation of energy resources.

(2) The Director of the State Department of Energy shall establish by rule a tiered priority system to be used in evaluating applicants for certification of facilities using or producing renewable energy resources. The tier system shall be based upon the projected costs of facilities. In determining the eligibility for tax credits and in allocating the available certified cost pursuant to section 2 (1), chapter 76, Oregon Laws 2010, among facilities, the director shall subject facilities with higher projected costs to closer scrutiny, shall compare projects of similar costs against each other and may certify less than the total cost of any facility based on this evaluation. The director may employ criteria including the following factors as defined by rule:

- (a) Technology-specific energy production standards;
- (b) Market sector;
- (c) Delivery of energy into existing distribution and transmission network;
- (d) Investment payback period;
- (e) Expected lifespan of the facility;
- (f) Potential for long-term viability;
- (g) Environmental standards established by the director;
- (h) Potential to create and sustain new jobs;
- (i) Projected siting in a location that is geographically or socioeconomically advantageous;
- (j) Demonstrated readiness to begin implementation;
- (k) Amount and quality of energy generated;
- (L) Strength of business plan;
- (m) Provision of operations and maintenance data, with appropriate protections for trade secrets consistent with ORS chapter 192;
- (n) Connection to existing infrastructure;
- (o) Third-party review of the applicant's business plan; or
- (p) Data related to projected return on investment.

Credits Renumbered from 469.195 in 2011 by the Legislative Counsel.

Formerly cited as OR ST § 469.197

469B.139. Establishment of minimum standards

The State Department of Energy shall by rule establish all of the following criteria:

- (1) For a high-performance home, the minimum design and construction standards that must be met or exceeded for a dwelling to be considered a high-performance home, including but not limited to standards for the building envelope, HVAC systems, lighting, appliances, water conservation measures, use of sustainable building materials and on-site renewable energy systems. The criteria must also establish the minimum reduction in estimated net purchased energy that a dwelling must achieve to be considered a high-performance home.
- (2) For a homebuilder-installed renewable energy system, the minimum performance and efficiency standards that a solar electric system, solar domestic water heating system, passive solar space heating system, wind power system, geothermal heating system, fuel cell system or other system utilizing renewable resources must achieve to be considered a homebuilder-installed renewable energy system.
- (3) For a high-efficiency combined heat and power facility, the minimum performance and efficiency standards that the facility must achieve to be considered a high-efficiency combined heat and power facility.
- (4) For a facility using or producing renewable energy resources, standards relating to criteria required under [ORS 469B.136 \(2\)](#).
- (5) Standards, consistent with the definitions in [ORS 469B.130](#), relating to what constitutes a single facility.

Credits Renumbered from 469.197 in 2011 by the Legislative Counsel.

Formerly cited as OR ST § 469.200

469B.142. Limitations on annual costs; facilities receiving tax credits

- (1) For a facility, the total cost that receives a preliminary certification from the Director of the State Department of Energy for tax credits in any calendar year may not exceed:
 - (a) \$20 million, in the case of a facility using or producing renewable energy resources or a high-efficiency combined heat and power facility;
 - (b) Five percent of the total cost of the facility but no more than \$3 million, in the case of a facility that uses or produces renewable energy resources and is a wind facility with an installed capacity of more than 10 megawatts; or
 - (c) \$10 million, in the case of any other facility.
- (2) The director shall determine the dollar amount certified for any facility and the priority between

applications for certification based upon the criteria contained in [ORS 469B.130](#) to [469B.169](#) and applicable rules and standards adopted under [ORS 469B.130](#) to [469B.169](#). The director may consider the status of a facility as a research, development or demonstration facility of new renewable resource generating and conservation technologies or a qualified transit pass contract in the determination.

Credits Renumbered from 469.200 in 2011 by the Legislative Counsel.

Formerly cited as OR ST § 469.205

469B.145. Applications for preliminary certification; contents; cost; eligibility; fees

(1) Prior to erection, construction, installation or acquisition of a proposed facility, any person may apply to the State Department of Energy for preliminary certification under [ORS 469B.157](#) if:

(a) The erection, construction, installation or acquisition of the facility is to be commenced on or after October 3, 1979;

(b) The facility complies with the standards or rules adopted by the Director of the State Department of Energy; and

(c) The applicant meets one of the following criteria:

(A) The applicant is a person to whom a tax credit for the facility has been transferred; or

(B) The applicant will be the owner, contract purchaser or lessee of the facility at the time of erection, construction, installation or acquisition of the proposed facility, and:

(i) The applicant is the owner, contract purchaser or lessee of a trade or business that plans to utilize the facility in connection with Oregon property; or

(ii) The applicant is the owner, contract purchaser or lessee of a trade or business that plans to lease the facility to a person that will utilize the facility in connection with Oregon property.

(2) An application for preliminary certification shall be made in writing on a form prepared by the department and shall contain:

(a) A statement that the applicant or the lessee of the applicant's facility:

(A) Intends to convert from a purchased energy source to a renewable energy resource;

(B) Plans to acquire, construct or install a facility that will use a renewable energy resource or solid waste instead of electricity, petroleum or natural gas;

(C) Plans to use a renewable energy resource in the generation of electricity for sale or to replace an existing or proposed use of an existing source of electricity;

(D) Plans to acquire, construct or install a facility that substantially reduces the consumption of

purchased energy;

(E) Plans to acquire, construct or install equipment for recycling as described in [ORS 469B.130 \(11\)](#);

(F) Plans to acquire an alternative fuel vehicle or to convert an existing vehicle to an alternative fuel vehicle;

(G) Plans to acquire, construct or install a facility necessary to operate alternative fuel vehicles;

(H) Plans to acquire transit passes for use by individuals specified by the applicant;

(I) Plans to acquire, construct or install a transportation facility;

(J) Plans to acquire a sustainable building practices facility;

(K) Plans to acquire a car sharing facility and operate a car sharing program;

(L) Plans to construct a high-efficiency combined heat and power facility;

(M) Is a homebuilder and plans to construct a homebuilder-installed renewable energy system; or

(N) Is a homebuilder and plans to construct a high-performance home.

(b) A detailed description of the proposed facility and its operation and information showing that the facility will operate as represented in the application and remain in operation for at least five years, unless the director by rule specifies a shorter period of operation.

(c) Information on the amount by which consumption of electricity, petroleum or natural gas by the applicant or the lessee of the applicant's facility will be reduced, and on the amount of energy that will be produced for sale, as the result of using the facility or, if applicable, information about the expected level of sustainable building practices facility performance.

(d) The projected cost of the facility.

(e) If applicable, a copy of the proposed qualified transit pass contract, transportation services contract or contract for lease of parking spaces for a car sharing facility.

(f) Information on the number and type of jobs that will be created, the number of jobs sustained throughout the construction, installation and operation of the facility and the benefits of the facility with regard to overall economic activity in this state.

(g) Information demonstrating that the proposed facility will comply with applicable state and local laws and regulations and obtain required licenses and permits.

(h) Information relating to the criteria required under [ORS 469B.136](#).

(i) Any other information the director considers necessary to determine whether the proposed facility

is in accordance with the provisions of [ORS 469B.130](#) to [469B.169](#), and any applicable rules or standards adopted by the director.

(3) An application for preliminary certification shall be accompanied by a fee established under [ORS 469B.164](#). The director may refund all or a portion of the fee if the application for certification is rejected.

(4) The director may allow an applicant to file the preliminary application or a reapplication under subsection (6) of this section after the start of erection, construction, installation or acquisition of the facility if the director finds:

(a) Filing the application before the start of erection, construction, installation or acquisition is inappropriate because special circumstances render filing earlier unreasonable; and

(b) The facility would otherwise qualify for tax credit certification pursuant to [ORS 469B.130](#) to [469B.169](#).

(5) A preliminary certification of a sustainable building practices facility shall be applied for and issued as prescribed by the department by rule.

(6) A preliminary certification shall remain valid for a period of three calendar years after the date the preliminary certification is issued by the director. The director may extend the three-year period for two additional calendar years upon reapplication and submission of the fee required by this section.

Credits Renumbered from 469.205 in 2011 by the Legislative Counsel.

Formerly cited as OR ST § 469.206

469B.148. Transfers of credits for cash; rules for uniform discount rates

(1) The owner of a facility may transfer a tax credit for the facility in exchange for a cash payment equal to the present value of the potential tax credit, as determined at the time of the application for preliminary certification.

(2) The State Department of Energy shall establish by rule a formula to be employed in the determination of prices of credits transferred under this section. In establishing the formula the department shall incorporate inflation projections and market real rate of return.

(3) The department shall recalculate credit transfer prices quarterly, employing the formula established under subsection (2) of this section.

(4) Notwithstanding any other provision of law, a tax credit transferred pursuant to this section does not decrease the amount of taxes required to be reported by a public utility.

Credits Renumbered from 469.206 in 2011 by the Legislative Counsel. Amended by [Laws 2012, c. 45, § 23a, eff. June 4, 2012](#).

Formerly cited as OR ST § 469.207

469B.151. Eligibility requirements for rental housing unit tax credits

- (1) Except as provided in subsection (3) of this section, an applicant under [ORS 469B.145 \(1\)\(c\)](#) shall be eligible for a tax credit for energy conservation measures installed in rental housing units pursuant to [ORS 469.636](#). The tax credit shall apply to only the first \$5,000 of actually installed energy conservation measure costs per dwelling unit.
- (2) An owner, contract purchaser or lessee of a rental housing unit for which energy conservation measures have been financed by an applicant under subsection (1) of this section is ineligible for an energy conservation measure tax credit for such measures.
- (3) No applicant under [ORS 469B.145 \(1\)\(c\)](#) shall be eligible for a tax credit for energy conservation measures installed in rental housing units pursuant to [ORS 469.636](#) if the rental housing units are constructed on or after January 1, 1996.

Credits Renumbered from 469.207 in 2011 by the Legislative Counsel.

Formerly cited as OR ST § 469.208

469B.154. Transfers of credits for cash payments; rules for uniform discount rates

- (1) The owner of a rental housing unit may transfer a tax credit for energy conservation measures installed in rental housing units under [ORS 469B.151](#) in exchange for a cash payment equal to the present value of the tax credit. To be eligible for a transfer, the energy conservation measures must have been recommended in an energy audit as provided in [ORS 469.633](#), [469.651](#) or [469.675](#).
- (2) The State Department of Energy may establish by rule uniform discount rates to be used in calculating the present value of a tax credit under this section.

Credits Renumbered from 469.208 in 2011 by the Legislative Counsel.

Formerly cited as OR ST § 469.210

469B.157. Plan specifications and contract terms; submissions and preliminary certification

- (1) The Director of the State Department of Energy may require the submission of plans, specifications and contract terms, and after examination thereof, may request corrections and revisions of the plans, specifications and terms.
- (2) If the director determines that the proposed acquisition, erection, construction or installation is technically feasible and should operate in accordance with the representations made by the applicant, and is in accordance with the provisions of [ORS 469B.130](#) to [469B.169](#) and any applicable rules or standards adopted by the director, the director shall issue a preliminary certificate approving the acquisition, erection, construction or installation of the facility. The certificate shall indicate the potential

amount of tax credit allowable and shall list any conditions for claiming the credit.

(3) The director may issue an order altering, conditioning, suspending or denying preliminary certification if the director determines that:

(a) The acquisition, erection, construction or installation does not comply with the provisions of [ORS 469B.130 to 469B.169](#) and applicable rules and standards;

(b) The applicant has previously received preliminary or final certification for the same costs;

(c) The applicant is unable to demonstrate that the facility would be economically viable without the allowance of additional credits under [ORS 315.354](#);

(d) The applicant was directly involved in an act for which the director has levied civil penalties or revoked, canceled or suspended any certification under [ORS 469B.130 to 469B.169](#); or

(e) The applicant or the principal, director, officer, owner, majority shareholder or member of the applicant, or the manager of the applicant if the applicant is a limited liability company, is in arrears for payments owed to any government agency while in any capacity with direct or indirect control over a business.

Credits Renumbered from 469.210 in 2011 by the Legislative Counsel.

Formerly cited as OR ST § 469.215

469B.161. Applications and eligibility for final certification; written notice of rejection; approvals

(1) A final certification may not be issued by the Director of the State Department of Energy under this section unless:

(a) The facility was acquired, erected, constructed or installed under a preliminary certificate of approval issued under [ORS 469B.157](#);

(b) The applicant demonstrates the ability to provide the information required by [ORS 469B.145 \(2\)](#) and does not violate any condition that may be imposed as described in [ORS 469B.157 \(3\)](#); and

(c) The facility was acquired, erected, constructed or installed in accordance with the applicable provisions of [ORS 469B.130 to 469B.169](#) and any applicable rules or standards adopted by the director.

(2) Any person may apply to the State Department of Energy for final certification of a facility:

(a) If the department issued preliminary certification for the facility under [ORS 469B.157](#); and

(b)(A) After completion of erection, construction, installation or acquisition of the proposed facility or, if the facility is a qualified transit pass contract, after entering into the contract with a transportation

provider; or

(B) After transfer of the facility, as provided in [ORS 315.354 \(5\)](#).

(3) An application for final certification shall be made in writing on a form prepared by the department and shall contain:

(a) A statement that the conditions of the preliminary certification have been complied with;

(b) The actual cost of the facility certified to by a certified public accountant who is not an employee of the applicant or, if the actual cost of the facility is less than \$50,000, copies of receipts for purchase and installation of the facility;

(c) The amount of the credit under [ORS 315.354](#) that is to be claimed;

(d) The number and type of jobs created by the operation and maintenance of the facility over the five-year period beginning with the year of preliminary certification under [ORS 469B.157](#) and information on the benefits of the facility with regard to overall economic activity in this state;

(e) Information sufficient to demonstrate that the facility will remain in operation for at least five years, unless the director by rule specifies a shorter period of operation;

(f) Information sufficient to demonstrate, in the case of a research, development or demonstration facility that is not in operation, that the applicant has made reasonable efforts to make the facility operable and meet the requirements of the preliminary certificate;

(g) Documentation of compliance with applicable state and local laws and regulations and licensing and permitting requirements as defined by the director; and

(h) Any other information determined by the director to be necessary prior to issuance of a final certificate, including inspection of the facility by the department.

(4) The director shall act on an application for certification before the 60th day after the filing of the application under this section. The director may issue the certificate, or certificates for efficient truck technology within a transportation facility, together with such conditions as the director determines are appropriate to promote the purposes of [ORS 315.354](#), [469B.130](#) to [469B.169](#) and [469B.171](#). If the applicant is an entity subject to regulation by the Public Utility Commission, the director may consult with the commission prior to issuance of the certificate. The action of the director shall include certification of the actual cost of the facility. However, the director may not certify an amount for tax credit purposes that is more than the amount approved in the preliminary certificate issued for the facility.

(5) If the director rejects an application for final certification, or certifies a lesser actual cost of the facility than was claimed in the application, the director shall send to the applicant written notice of the action, together with a statement of the findings and reasons therefor, by certified mail, before the 60th day after the filing of the application. Failure of the director to act constitutes rejection of the application.

(6) Upon approval of an application for final certification of a facility, the director shall certify the

facility. Each certificate shall bear a separate serial number for each device. Where one or more devices constitute an operational unit, the director may certify the operational unit under one certificate.

(7) The director may establish by rule timelines and intermediate deadlines for submission of application materials.

Credits Renumbered from 469.215 in 2011 by the Legislative Counsel.

Formerly cited as OR ST § 469.217

469B.164. Certification fees

By rule and after hearing, the Director of the State Department of Energy may adopt a schedule of reasonable fees which the State Department of Energy may require of applicants for preliminary or final certification under [ORS 469B.130](#) to [469B.169](#). Before the adoption or revision of the fees, the department shall estimate the total cost of the program to the department. The fees shall be used to recover the anticipated cost of filing, investigating, granting and rejecting applications for certification and shall be designed not to exceed the total cost estimated by the department. Any excess fees shall be held by the department and shall be used by the department to reduce any future fee increases. The fee may vary according to the size and complexity of the facility. The fee shall not be considered as part of the cost of the facility to be certified.

Credits Renumbered from 469.217 in 2011 by the Legislative Counsel.

Formerly cited as OR ST § 469.220

469B.167. Requirement for certificate when seeking tax credits; time limitations

(1)(a) A certificate issued under [ORS 469B.161](#) is required for purposes of obtaining tax credits in accordance with [ORS 315.354](#). Such certification shall be granted for a period not to exceed five years. The five-year period shall begin with the tax year of the applicant during which the completed application for final certification of the facility under [ORS 469B.161](#) is received by the State Department of Energy.

(b) For a transferee holding a credit that has been transferred under [ORS 469B.148](#) or [469B.154](#), the five-year period shall begin with the tax year in which the transferee pays for the credit.

(2) Notwithstanding subsection (1) of this section, for a facility using or producing renewable energy resources with a certified cost that exceeds \$10 million and that receives final certification under [ORS 469B.161](#) after January 1, 2010:

(a) The five-year period prescribed in subsection (1)(a) of this section shall begin with the tax year immediately following the tax year during which the completed application for final certification of the facility under [ORS 469B.161](#) is received by the department.

(b) If claimed by a transferee, the first of five tax years in which the transferee may claim the credit is the tax year in which the transferee paid for the credit or the tax year prescribed in paragraph (a) of

this subsection, whichever is later.

(c) An application shall be considered complete without the identification of a transferee for purposes of [ORS 469B.148](#) or [469B.154](#).

(3) If the original owner of the certificate uses any portion of the credit, the certificate becomes nontransferable.

Credits Renumbered from 469.220 in 2011 by the Legislative Counsel.

Formerly cited as OR ST § 469.225

469B.169. Certificate suspension or revocation and forfeiture of credits; collection procedures

(1) Under the procedures for a contested case under ORS chapter 183, the Director of the State Department of Energy may order the suspension or revocation of the certificate issued under [ORS 469B.161](#) if the director finds that:

(a) The certification was obtained by fraud or misrepresentation;

(b) The holder of the certificate or the operator of the facility has failed to construct or operate the facility in compliance with the plans, specifications and procedures in the certificate; or

(c) The facility is no longer in operation.

(2) As soon as the order of revocation under this section becomes final, the director shall notify the Department of Revenue, the facility owner, contract purchaser or lessee and any transferee under [ORS 469B.148](#) of the order of revocation.

(3) If the certificate is ordered revoked pursuant to subsection (1)(a) of this section, all prior tax credits provided to the holder of the certificate by virtue of the certificate shall be forfeited and upon notification under subsection (2) of this section the Department of Revenue immediately shall proceed to collect those taxes not paid by the certificate holder as a result of the tax credits provided to the holder under [ORS 315.354](#).

(4)(a) The Department of Revenue shall have the benefit of all laws of this state pertaining to the collection of income and excise taxes and may proceed to collect the amounts described in subsection (3) of this section from the person that obtained certification from the State Department of Energy or any successor in interest to the business interests of that person. No assessment of tax shall be necessary and no statute of limitation shall preclude the collection of taxes described in this subsection.

(b) For purposes of this subsection, a lender, bankruptcy trustee or other person that acquires an interest through bankruptcy or through foreclosure of a security interest is not considered to be a successor in interest to the business interests of the person that obtained certification from the State Department of Energy.

(5) If the certificate is ordered revoked pursuant to subsection (1)(b) of this section, the certificate holder

shall be denied any further relief under [ORS 315.354](#) in connection with the facility from and after the date that the order of revocation becomes final.

(6) Notwithstanding subsections (1) to (5) of this section, a certificate or portion of a certificate held by a transferee under [ORS 469B.148](#) may not be considered revoked for purposes of the transferee, the tax credit allowable to the transferee under [ORS 315.354](#) may not be reduced and a transferee is not liable under subsections (3) and (4) of this section.

Credits Renumbered from 469.225 in 2011 by the Legislative Counsel.

Formerly cited as OR ST § 469.878

469B.171. Alternative fuels program

(1) An investor-owned utility may offer cash payments to assist the utility’s commercial and industrial customers in purchasing a facility as defined in [ORS 469B.130](#), including but not limited to an alternative fuel vehicle refueling station. The utility may pay the customer the present value to the utility of the tax credit to which the customer would be entitled under [ORS 469B.130](#) to [469B.169](#).

(2) As used in this section, “cash payment” and “investor-owned utility” have the meanings given those terms in [ORS 469.631](#).

Credits Renumbered from 469.878 in 2011 by the Legislative Counsel.