

# D R A F T

## SUMMARY

Expands residential alternative energy device tax credit to permit increased capacity wind electric systems and fuel cell systems to qualify for credit. Makes conforming changes.

Applies to alternative energy devices constructed or installed on or after January 1, 2007.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to renewable energy; creating new provisions; amending ORS  
3 316.116, 469.160, 469.165, 469.170, 469.172, 469.176 and 469.180 and section  
4 5a, chapter 832, Oregon Laws 2005; and prescribing an effective date.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 469.160 is amended to read:

7 469.160. As used in ORS 316.116, 317.115 and 469.160 to 469.180:

8 [(1) "Alternative energy device" means:]

9 [(a) Any system, mechanism or series of mechanisms, including photovoltaic  
10 systems, that uses solar radiation or wind for space heating, cooling or elec-  
11 trical energy for one or more dwellings;]

12 [(b) Any system that uses solar radiation for:]

13 [(A) Domestic water heating; or]

14 [(B) Swimming pool, spa or hot tub heating and that meets the require-  
15 ments set forth in ORS 316.116;]

16 [(c) A ground water heat pump and ground loop system;]

17 [(d) A wind powered turbine that generates electricity;]

18 [(e) Any wind powered device used to offset or supplement the use of elec-

1 *tricity by performing a specific task such as pumping water;]*

2 *[(f) Equipment used in the production of alternative fuels;]*

3 *[(g) A generator powered by alternative fuels and used to produce electric-*  
4 *ity;]*

5 *[(h) A fuel cell;]*

6 *[(i) An energy efficient appliance; or]*

7 *[(j) An alternative fuel device.]*

8 **(1) “Alternative energy device” means a category one alternative**  
9 **energy device or a category two alternative energy device.**

10 (2) “Alternative fuel device” means any of the following:

11 (a) An alternative fuel vehicle;

12 (b) Related equipment; or

13 (c) A fueling station necessary to operate an alternative fuel vehicle.

14 (3) “Alternative fuel vehicle” means a motor vehicle as defined in ORS  
15 801.360 that is:

16 (a) Registered in this state; and

17 (b) Manufactured or modified to use an alternative fuel, including but not  
18 limited to electricity, natural gas, ethanol, methanol, propane and any other  
19 fuel approved in rules adopted by the Director of the State Department of  
20 Energy that produces less exhaust emissions than vehicles fueled by gasoline  
21 or diesel. Determination that a vehicle is an alternative fuel vehicle shall  
22 be made without regard to energy consumption savings.

23 **(4) “Category one alternative energy device” means:**

24 **(a) Any system, mechanism or series of mechanisms that uses solar**  
25 **radiation for space heating or cooling for one or more dwellings;**

26 **(b) Any system that uses solar radiation for:**

27 **(A) Domestic water heating; or**

28 **(B) Swimming pool, spa or hot tub heating and that meets the re-**  
29 **quirements set forth in ORS 316.116;**

30 **(c) A ground water heat pump and ground loop system;**

31 **(d) Any wind powered device used to offset or supplement the use**

- 1 of electricity by performing a specific task such as pumping water;
- 2 (e) Equipment used in the production of alternative fuels;
- 3 (f) A generator powered by alternative fuels and used to produce
- 4 electricity;
- 5 (g) An energy efficient appliance;
- 6 (h) An alternative fuel device; or
- 7 (i) A premium efficiency biomass combustion device that includes
- 8 a dedicated outside combustion air source and that meets minimum
- 9 performance standards that are established by the State Department
- 10 of Energy.

11 (5) "Category two alternative energy device" means a fuel cell sys-  
12 tem, solar electric system or wind electric system.

13 [(4)] (6) "Coefficient of performance" means the ratio calculated by di-  
14 viding the usable output energy by the electrical input energy. Both energy  
15 values must be expressed in equivalent units.

16 [(5)] (7) "Contractor" means a person whose trade or business consists of  
17 offering for sale an alternative energy device, construction service, installa-  
18 tion service or design service.

19 [(6)(a)] (8)(a) "Cost" means the actual cost of the acquisition, con-  
20 struction and installation of the alternative energy device [*or solar electric*  
21 *system*] paid by the taxpayer for the alternative energy device [*or solar elec-*  
22 *tric system*].

23 (b) For an alternative fuel vehicle, "cost" means the difference between  
24 the cost of the alternative fuel vehicle and the same vehicle or functionally  
25 similar vehicle manufactured to use conventional gasoline or diesel fuel or,  
26 in the case of modification of an existing vehicle, the cost of the modifica-  
27 tion. "Cost" does not include any amounts paid for remodification of the  
28 same vehicle.

29 (c) For a fueling station necessary to operate an alternative fuel vehicle,  
30 "cost" means the cost to the contractor of constructing or installing the fu-  
31 eling station in a dwelling and of making the fuel station operational in

1 469.160 to 469.180. The amount of the credit shall be the same whether for  
2 collective or noncollective investment.

3 (b) The credit allowed under this section for **category one alternative**  
4 **energy devices** for each dwelling [*shall*] **may** not exceed the lesser of:

5 (A) \$1,500 or the first year energy yield in kilowatt hours per year  
6 multiplied by 60 cents per dwelling utilizing the alternative energy device  
7 used for space heating, cooling, electrical energy or domestic water heating  
8 for tax years beginning on or after January 1, 1990, and before January 1,  
9 1996.

10 (B) \$1,200 or the first year energy yield in kilowatt hours per year  
11 multiplied by 48 cents per dwelling utilizing the alternative energy device  
12 used for space heating, cooling, electrical energy or domestic water heating  
13 for tax years beginning on or after January 1, 1996, and before January 1,  
14 1998.

15 (C) \$1,500 or the first year energy yield in kilowatt hours per year  
16 multiplied by 60 cents per dwelling utilizing the alternative energy device  
17 used for space heating, cooling, electrical energy or domestic water heating  
18 for tax years beginning on or after January 1, 1998.

19 (c) For [*an*] **a category one** alternative energy device used for swimming  
20 pool, spa or hot tub heating, the credit allowed under this section shall be  
21 based upon 50 percent of the cost of the device or the first year's energy  
22 yield in kilowatt hours per year multiplied by 15 cents, whichever is lower,  
23 up to:

24 (A) \$1,500 for tax years beginning on or after January 1, 1990, and before  
25 January 1, 1996.

26 (B) \$1,200 for tax years beginning on or after January 1, 1996, and before  
27 January 1, 1998.

28 (C) \$1,500 for tax years beginning on or after January 1, 1998.

29 (d) For an alternative fuel device, the credit allowed under this section  
30 is 25 percent of the cost of the alternative fuel device but the total credit  
31 shall not exceed \$750 if the device is placed in service on or after January

1 1, 1998.

2 (e)(A) For a **category two alternative energy device** that is a solar  
3 electric system **or fuel cell system**, the credit allowed under this section  
4 shall equal \$3 per watt of installed output, but the installed output that is  
5 used to determine the amount of credit under this paragraph may not exceed  
6 2,000 watts.

7 (B) For a **category two alternative energy device** that is a wind  
8 electric system, the credit allowed under this section may not exceed  
9 the lesser of \$6,000 or the first year energy yield in kilowatt hours per  
10 year multiplied by \$2.

11 [(B)] (C) Notwithstanding subparagraph (A) **or (B)** of this paragraph, the  
12 amount of the credit allowed in any one tax year may not exceed the tax  
13 liability of the taxpayer or \$1,500, whichever is less. Unused credit amounts  
14 may be carried forward as provided in subsection (7) of this section, but may  
15 not be carried forward to a tax year that is more than five tax years fol-  
16 lowing the first tax year for which any credit was allowed with respect to  
17 the [*solar electric system*] **category two alternative energy device** that is  
18 the basis for the credit.

19 [(C)] (D) Notwithstanding subparagraph (A) **or (B)** of this paragraph, the  
20 total amount of the credit allowed under this paragraph may not exceed 50  
21 percent of the total installed cost of the [*solar electric system*] **category two**  
22 **alternative energy device**.

23 (3)(a) In the case of a credit for [*an*] **a category one** alternative energy  
24 device that is an energy efficient appliance, the credit allowed to a resident  
25 individual under this section shall equal:

26 (A) 48 cents per first year kilowatt hour saved, or the equivalent for other  
27 fuel saved, not to exceed \$1,200 for each tax year beginning on or after  
28 January 1, 1998, and before January 1, 1999; and

29 (B) 40 cents per kilowatt hour saved, or the equivalent for other fuel  
30 saved, not to exceed \$1,000 for each tax year beginning on or after January  
31 1, 1999.

1 (b) Notwithstanding paragraph (a) of this subsection, the credit allowed  
2 for an energy efficient appliance [*shall*] **may not exceed 25 percent of the**  
3 cost of the appliance.

4 (4) To qualify for a credit under this section, all of the following are re-  
5 quired:

6 (a) The alternative energy device [*or solar electric system*] must be pur-  
7 chased, constructed, installed and operated in accordance with ORS 469.160  
8 to 469.180 and a certificate issued thereunder.

9 (b) Except for credits claimed for alternative fuel devices, the taxpayer  
10 who is allowed the credit must be the owner or contract purchaser of the  
11 dwelling or dwellings served by the alternative energy device [*or solar elec-*  
12 *tric system*] or the tenant of the owner or of the contract purchaser and must:

13 (A) Use the dwelling or dwellings served by the alternative energy device  
14 [*or solar electric system*] as a principal or secondary residence; or

15 (B) Rent or lease, under a residential rental agreement, the dwelling or  
16 dwellings to a tenant who uses the dwelling or dwellings as a principal or  
17 secondary residence, unless the basis for the credit is the installation of an  
18 energy efficient appliance. If the basis for the credit is the installation of  
19 an energy efficient appliance, the credit shall be allowed only to the taxpayer  
20 who actually occupies the dwelling as a principal or secondary residence.

21 (c) In the case of an alternative fuel device, if the device is a fueling  
22 station necessary to operate an alternative fuel vehicle, unless the verifica-  
23 tion form and certificate are transferred as authorized under ORS 469.170 (8),  
24 the taxpayer who is allowed the credit must be the contractor who constructs  
25 the dwelling that incorporates the fueling station into the dwelling or in-  
26 stalls the fueling station in the dwelling. If the **category one** alternative  
27 energy device is an alternative fuel vehicle, the credit must be claimed by  
28 the owner as defined under ORS 801.375 or contract purchaser. If the **cate-**  
29 **gory one** alternative energy device is related equipment **for an alternative**  
30 **fuel vehicle**, the credit may be claimed by the owner or contract purchaser.

31 (d) The credit must be claimed for the tax year in which the alternative

1 energy device [*or solar electric system*] was purchased if the device [*or*  
2 *system*] is operational by April 1 of the next following tax year.

3 (5) The credit provided by this section does not affect the computation  
4 of basis under this chapter.

5 (6) The credit allowed under this section in any one year may not exceed  
6 the tax liability of the taxpayer.

7 (7) Any tax credit otherwise allowable under this section that is not used  
8 by the taxpayer in a particular year may be carried forward and offset  
9 against the taxpayer's tax liability for the next succeeding tax year. Any  
10 credit remaining unused in the next succeeding tax year may be carried  
11 forward and used in the second succeeding tax year, and likewise any credit  
12 not used in that second succeeding tax year may be carried forward and used  
13 in the third succeeding tax year, and any credit not used in that third suc-  
14 ceeding tax year may be carried forward and used in the fourth succeeding  
15 tax year, and any credit not used in that fourth succeeding tax year may be  
16 carried forward and used in the fifth succeeding tax year, but may not be  
17 carried forward for any tax year thereafter.

18 (8) A nonresident shall be allowed the credit under this section in the  
19 proportion provided in ORS 316.117.

20 (9) If a change in the taxable year of a taxpayer occurs as described in  
21 ORS 314.085, or if the Department of Revenue terminates the taxpayer's  
22 taxable year under ORS 314.440, the credit allowed by this section shall be  
23 prorated or computed in a manner consistent with ORS 314.085.

24 (10) If a change in the status of a taxpayer from resident to nonresident  
25 or from nonresident to resident occurs, the credit allowed by this section  
26 shall be determined in a manner consistent with ORS 316.117.

27 (11) A husband and wife who file separate returns for a taxable year may  
28 each claim a share of the tax credit that would have been allowed on a joint  
29 return in proportion to the contribution of each. However, a husband or wife  
30 living in a separate principal residence may claim the tax credit in the same  
31 amount as permitted a single person.

1 (12) As used in this section, unless the context requires otherwise:

2 (a) "Collective investment" means an investment by two or more taxpay-  
3 ers for the acquisition, construction and installation of an alternative energy  
4 device for one or more dwellings.

5 [(b) "*First year energy yield*" has the meaning given in ORS 469.160.]

6 [(c)] (b) "Noncollective investment" means an investment by an individual  
7 taxpayer for the acquisition, construction and installation of an alternative  
8 energy device for one or more dwellings.

9 [(13)] (c) [As used in this section,] "Taxpayer" includes a transferee of a  
10 verification form under ORS 469.170 (8).

11 [(14)] (13) Notwithstanding any provision of subsection (1) or (2) of this  
12 section, the sum of the credit allowed under subsection (1) of this section  
13 plus any similar credit allowed for federal income tax purposes [shall] may  
14 not exceed the cost to the taxpayer for the acquisition, construction and in-  
15 stallation of the alternative energy device [or solar electric system].

16 **SECTION 3.** ORS 469.165 is amended to read:

17 469.165. (1) For the purposes of carrying out ORS 469.160 to 469.180, the  
18 State Department of Energy may adopt rules prescribing minimum perform-  
19 ance criteria for alternative energy devices for dwellings [and solar electric  
20 systems].

21 (2) The department, in adopting rules under this section for solar heating  
22 and cooling systems, shall take into consideration applicable standards of  
23 federal performance criteria prescribed pursuant to the provisions of section  
24 5506, title 42, United States Code (Solar Heating and Cooling Act of 1974).

25 (3) The Director of the State Department of Energy shall adopt rules  
26 governing the determination of eligibility, verification and certification of  
27 an alternative fuel device for purposes of the tax credits granted under ORS  
28 316.116 and 317.115, including but not limited to rules that further define an  
29 alternative fuel vehicle, related equipment or fueling station necessary to  
30 operate an alternative fuel vehicle, that govern the computation of costs el-  
31 igible for credit and that require equitable allocation of the tax credit ben-

1 efits between the lessor and the lessee of an alternative fuel vehicle as a  
2 condition of tax credit eligibility.

3 **SECTION 4.** ORS 469.170 is amended to read:

4 469.170. (1) Any person may claim a tax credit under ORS 316.116 (or ORS  
5 317.115, if the person is a corporation) if the person:

6 (a) Meets the requirements of ORS 316.116 (or ORS 317.115, if applicable);

7 (b) Meets the requirements of ORS 469.160 to 469.180; and

8 (c) Pays, subject to subsection (9) of this section, all or a portion of the  
9 costs of an alternative energy device [*or a solar electric system*].

10 (2) A credit under ORS 317.115 may be claimed only if the alternative  
11 energy device is a fueling station necessary to operate an alternative fuel  
12 vehicle.

13 (3)(a) In order to be eligible for a tax credit under ORS 316.116 or 317.115,  
14 a person claiming a tax credit for construction or installation of an alter-  
15 native energy device (including a fueling station) [*or a solar electric system*]  
16 shall have the device [*or system*] certified by the State Department of Energy  
17 or constructed or installed by a contractor certified by the department under  
18 subsection (5) of this section. This paragraph does not apply to an alternative  
19 fuel vehicle or to related equipment.

20 (b) Certification of an alternative fuel vehicle or related equipment shall  
21 be accomplished under rules that shall be adopted by the Director of the  
22 State Department of Energy.

23 (4) Verification of the purchase, construction or installation of an alter-  
24 native energy device [*or solar electric system*] shall be made in writing on a  
25 form provided by the Department of Revenue and, if applicable, shall contain:

26 (a) The location of the alternative energy device [*or solar electric*  
27 *system*];

28 (b) A description of the type of device [*or system*];

29 (c) If the device [*or system*] was constructed or installed by a contractor,  
30 evidence that the contractor has any license, bond, insurance and permit  
31 required to sell and construct or install the alternative energy device [*or*

- 1 *solar electric system*];
- 2 (d) If the device [*or system*] was constructed or installed by a contractor,  
3 a statement signed by the contractor that the applicant has received:
- 4 (A) A statement of the reasonably expected energy savings of the device  
5 [*or system*];
- 6 (B) A copy of consumer information published by the State Department  
7 of Energy;
- 8 (C) An operating manual for the alternative energy device [*or solar elec-*  
9 *tric system*]; and
- 10 (D) A copy of the contractor's certification certificate or alternative en-  
11 ergy device system certificate for the alternative energy device [*or solar*  
12 *electric system*], as appropriate;
- 13 (e) If the device [*or system*] was not constructed or installed by a con-  
14 tractor, evidence that:
- 15 (A) The State Department of Energy has issued an alternative energy  
16 device system certificate for the alternative energy device [*or solar electric*  
17 *system*]; and
- 18 (B) The taxpayer has obtained all building permits required for con-  
19 struction or installation of the device [*or system*];
- 20 (f) A statement, signed by both the taxpayer claiming the credit and the  
21 contractor if the device [*or system*] was constructed or installed by a con-  
22 tractor, that the construction or installation meets all the requirements of  
23 ORS 469.160 to 469.180 or, if the device is a fueling station and the taxpayer  
24 is the contractor, a statement signed by the contractor that the construction  
25 or installation meets all of the requirements of ORS 469.160 to 469.180;
- 26 (g) The date the alternative energy device [*or solar electric system*] was  
27 purchased;
- 28 (h) The date the alternative energy device [*or solar electric system*] was  
29 placed in service; and
- 30 (i) Any other information that the Director of the State Department of  
31 Energy or the Department of Revenue determines is necessary.

1 (5)(a) When the State Department of Energy finds that an alternative  
2 energy device [*or solar electric system*] can meet the standards adopted under  
3 ORS 469.165, the Director of the State Department of Energy may issue a  
4 contractor system certification to the person selling and constructing or in-  
5 stalling the alternative energy device [*or solar electric system*].

6 (b) Any person who sells or installs more than 12 alternative energy de-  
7 vices [*or solar electric systems*] in one year shall apply for a contractor sys-  
8 tem certification. An application for a contractor system certification shall  
9 be made in writing on a form provided by the State Department of Energy  
10 and shall contain:

11 (A) A statement that the contractor has any license, bonding, insurance  
12 and permit that is required for the sale and construction or installation of  
13 the alternative energy device [*or solar electric system*];

14 (B) A specific description of the alternative energy device [*or solar electric*  
15 *system*], including, but not limited to, the material, equipment and mech-  
16 anism used in the device [*or system*], operating procedure, sizing and siting  
17 method and construction or installation procedure;

18 (C) The addresses of three installations of the device [*or system*] that are  
19 available for inspection by the State Department of Energy;

20 (D) The range of installed costs to purchasers of the device [*or system*];

21 (E) Any important construction, installation or operating instructions;  
22 and

23 (F) Any other information that the State Department of Energy deter-  
24 mines is necessary.

25 (c) A new application for contractor system approval shall be filed when  
26 there is a change in the information supplied under paragraph (b) of this  
27 subsection.

28 (d) The State Department of Energy may issue contractor system certifi-  
29 cates to each contractor who on October 3, 1989, has a valid dealer system  
30 certification, which shall authorize the sale and installation of the same  
31 domestic water heating alternative energy devices authorized by the dealer

1 certification.

2 (e) If the State Department of Energy finds that an alternative energy  
3 device [*or solar electric system*] can meet the standards adopted under ORS  
4 469.165, the Director of the State Department of Energy may issue an alter-  
5 native energy device system certificate to the taxpayer constructing or in-  
6 stalling or having an alternative energy device [*or solar electric system*]  
7 constructed or installed.

8 (f) An application for an alternative energy device system certificate shall  
9 be made in writing on a form provided by the State Department of Energy  
10 and shall contain:

11 (A) A specific description of the alternative energy device [*or solar electric*  
12 *system*], including, but not limited to, the material, equipment and mech-  
13 anism used in the device [*or system*], operating procedure, sizing, siting  
14 method and construction or installation procedure;

15 (B) The constructed or installed cost of the device [*or system*]; and

16 (C) A statement that the taxpayer has all permits required for con-  
17 struction or installation of the device [*or system*].

18 (6) To claim the tax credit, the verification form described in subsection  
19 (4) of this section shall be submitted with the taxpayer's tax return for the  
20 year the alternative energy device [*or solar electric system*] is placed in ser-  
21 vice or the immediately succeeding tax year. A copy of the contractor's cer-  
22 tification certificate, alternative energy device system certificate or  
23 alternative fuel vehicle or related equipment certificate also shall be sub-  
24 mitted.

25 (7) The verification form and contractor's certificate, alternative energy  
26 device system certificate or alternative fuel vehicle or related equipment  
27 certificate described under this section shall be effective for purposes of tax  
28 relief allowed under ORS 316.116 or 317.115.

29 (8) The verification form and contractor's certificate described under this  
30 section may be transferred to the first purchaser of a dwelling or, in the case  
31 of construction or installation of a fueling station in an existing dwelling,

1 the current owner, who intends to use or is using the dwelling as a principal  
2 or secondary residence.

3 (9) Any person that pays the present value of the tax credit for an alter-  
4 native energy device [*or solar electric system*] provided under ORS 316.116 or  
5 317.115 and 469.160 to 469.180 to the person who constructs or installs the  
6 alternative energy device [*or solar electric system*] shall be entitled to claim  
7 the credit in the manner and subject to rules adopted by the Department of  
8 Revenue to carry out the purposes of this subsection. The State Department  
9 of Energy may establish by rule uniform discount rates to be used in calcu-  
10 lating the present value of a tax credit under this subsection.

11 **SECTION 5.** ORS 469.172 is amended to read:

12 469.172. The following devices are not eligible for the tax credit under  
13 ORS 316.116:

14 (1) Standard efficiency furnaces;

15 (2) Standard back-up heating systems;

16 (3) Woodstoves or wood furnaces, or any part of a heating system that  
17 burns wood, **unless the woodstove, furnace or system constitutes a**  
18 **premium efficiency biomass combustion device described in ORS**  
19 **469.160 (4)(i);**

20 (4) Heat pump water heaters that are part of a geothermal heat pump  
21 space heating system;

22 (5) Structures that cover or enclose a swimming pool;

23 (6) Swimming pools, hot tubs or spas used to store heat;

24 (7) Above ground, uninsulated swimming pools, hot tubs or spas;

25 (8) Photovoltaic systems installed on recreational vehicles;

26 (9) Conversion of an existing alternative energy device [*or solar electric*  
27 *system*] to another type of alternative energy device [*or solar electric*  
28 *system*];

29 (10) Repair or replacement of an existing alternative energy device [*or*  
30 *solar electric system*];

31 (11) A [*solar electric system*] **category two alternative energy device.**

1 if the equipment or other property that comprises the [*solar electric system*]  
2 **category two alternative energy device** is [*also*] the basis for an allowed  
3 credit for [*an*] **a category one** alternative energy device under ORS 316.116;

4 (12) [*An*] **A category one** alternative energy device, if the equipment or  
5 other property that comprises the **category one** alternative energy device  
6 is also the basis for an allowed credit for a [*solar electric system*] **category**  
7 **two alternative energy device** under ORS 316.116; or

8 (13) Any other device identified by the State Department of Energy. The  
9 department may adopt rules defining standards for eligible and ineligible  
10 devices under this section.

11 **SECTION 6.** ORS 469.176 is amended to read:

12 469.176. (1) Except for alternative fuel vehicles or related equipment, in  
13 order to carry out ORS 469.160 to 469.180, the State Department of Energy  
14 shall develop performance assumptions and prescriptive measures to deter-  
15 mine the eligibility and tax credit amount for alternative energy devices [*and*  
16 *solar electric systems*] constructed or installed in a dwelling.

17 (2) The department shall use the performance assumptions and  
18 prescriptive measures to develop information for the Department of Revenue  
19 to use to allow taxpayers to determine their eligibility and tax credit  
20 amount. The State Department of Energy may review this information on an  
21 annual basis to take into consideration new technology and performance as-  
22 sumption accuracy.

23 (3) For the purpose of determining the first year energy yield of an al-  
24 ternative energy device, the department shall use the following assumptions  
25 and test standards:

26 (a) Solar Rating and Certification Corporation standard SRCC 100, 200,  
27 American Society of Heating, Refrigerating and Air-Conditioning Engineers  
28 93-77, or the American Refrigeration Institute standard 325-85 test at 50 de-  
29 grees entering water temperature, as appropriate. The testing requirements  
30 under this paragraph shall not apply to an owner-built alternative energy  
31 device.

1 (b) For an alternative energy device used as a source for domestic water  
2 heating energy, a hot water use of 75 gallons per day at 120 degrees  
3 Fahrenheit. The load of 75 gallons per day at 120 degrees Fahrenheit shall  
4 be achieved by including conservation measures in the construction or in-  
5 stallation of the alternative energy device.

6 (c) For an alternative energy device used as a source for space heating  
7 or cooling, the heating or cooling energy load as determined by a heat loss  
8 or gain calculation performed in accordance with the methods established  
9 by the American Society of Heating, Refrigerating and Air-Conditioning  
10 Engineers. Except for an owner-built or site-built system, an alternative en-  
11 ergy device used as a source for domestic hot water heating must meet the  
12 SRCC OG 300 systems test or comply with comparable requirements as de-  
13 termined by the department.

14 (d) For an alternative energy device used as a source for electrical energy,  
15 the first year energy yield shall be based upon the electrical energy load of  
16 the dwelling as determined according to the procedure established by the  
17 department.

18 (e) For an alternative energy device used as a source for swimming pool,  
19 spa or hot tub heating, the first year energy yield shall be based on the  
20 heating load of the swimming pool, spa or hot tub as determined according  
21 to the procedure established by the department.

22 **SECTION 7.** ORS 469.180 is amended to read:

23 469.180. (1) Upon the Department of Revenue's own motion, or upon re-  
24 quest of the State Department of Energy, the Department of Revenue may  
25 initiate proceedings for the forfeiture of a tax credit allowed under ORS  
26 316.116 or 317.115 if:

27 (a) The verification was fraudulent because of a misrepresentation by the  
28 taxpayer or investor owned utility;

29 (b) The verification was fraudulent because of a misrepresentation by the  
30 contractor;

31 (c) In the case of [*a solar electric system or*] an alternative energy device

1 other than an alternative fuel vehicle or related equipment, the [*solar electric*  
2 *system or*] alternative energy device has not been constructed, installed or  
3 operated in substantial compliance with the requirements of ORS 469.160 to  
4 469.180; or

5 (d) The taxpayer or investor owned utility failed to consent to an in-  
6 spection of the constructed or installed alternative energy device [*or solar*  
7 *electric system*] by the State Department of Energy after a reasonable, written  
8 request for such an inspection by the State Department of Energy. This  
9 paragraph does not apply to an alternative fuel vehicle or to related equip-  
10 ment.

11 (2) Pursuant to the procedures for a contested case under ORS chapter  
12 183, the Director of the State Department of Energy may order the revoca-  
13 tion of a contractor certificate issued under ORS 469.170 if the director finds  
14 that:

15 (a) The contractor certificate was obtained by fraud or misrepresentation  
16 by the contractor certificate holder;

17 (b) The contractor's performance for the alternative energy device [*or so-*  
18 *lar electric system*] for which the contractor is issued a certificate under ORS  
19 469.170 does not meet industry standards; or

20 (c) The contractor has misrepresented to the customer either the tax  
21 credit program or the nature or quality of the alternative energy device [*or*  
22 *solar electric system*].

23 (3) If the tax credit allowed under ORS 316.116 or 317.115 for the pur-  
24 chase, construction or installation of an alternative energy device [*or solar*  
25 *electric system*] is ordered forfeited due to an action of the taxpayer or in-  
26 vestor owned utility under subsection (1)(a), (c) or (d) of this section, all  
27 prior tax relief provided to the taxpayer or investor owned utility shall be  
28 forfeited and the Department of Revenue shall proceed to collect those taxes  
29 not paid by the taxpayer or utility as a result of the tax credit relief under  
30 ORS 316.116 or 317.115.

31 (4) If the tax credit for the construction or installation of an alternative

1 energy device [*or solar electric system*] is ordered forfeited due to an action  
 2 of the contractor under subsection (1)(b) of this section, the Department of  
 3 Revenue shall proceed to collect, from the contractor, an amount equivalent  
 4 to those taxes not paid by the taxpayer or investor owned utility as a result  
 5 of the tax credit relief under ORS 316.116 or 317.115. As long as the forfeiture  
 6 is due to an action of the contractor and not to an action of the taxpayer  
 7 or utility, the assessment of such taxes shall be levied on the contractor and  
 8 not on the taxpayer or utility. Notwithstanding ORS 314.835, the Department  
 9 of Revenue may disclose information from income tax returns or reports to  
 10 the extent such disclosure is necessary to collect amounts from contractors  
 11 under this subsection.

12 (5) In order to obtain information necessary to verify eligibility and  
 13 amount of the tax credit, the State Department of Energy or its represen-  
 14 tative may inspect an alternative energy device [*or solar electric system*] that  
 15 has been purchased, constructed or installed. The inspection shall be made  
 16 only with the consent of the owner of the dwelling. Failure to consent to the  
 17 inspection is grounds for the forfeiture of any tax credit relief under ORS  
 18 316.116 or 317.115. The Department of Revenue shall proceed to collect any  
 19 taxes due according to subsection (4) of this section. For electrical generat-  
 20 ing alternative energy devices [*or solar electric systems*], the State Depart-  
 21 ment of Energy may obtain energy consumption records for the dwelling the  
 22 device [*or system*] serves, for a 12-month period, in order to verify eligibility  
 23 and amount of the tax credit.

24 **SECTION 8.** Section 5a, chapter 832, Oregon Laws 2005, is amended to  
 25 read:

26 **Sec. 5a.** A taxpayer may not be allowed a credit under ORS 316.116 if the  
 27 first tax year for which the credit would otherwise be allowed with respect  
 28 to an alternative energy device[*, solar electric system*] or alternative fuel ve-  
 29 hicle or related equipment is on or after January 1, 2016.

30 **SECTION 9.** The amendments to ORS 316.116, 469.160, 469.165,  
 31 469.170, 469.172, 469.176 and 469.180 and section 5a, chapter 832, Oregon

1 Laws 2005, by sections 1 to 8 of this 2007 Act apply to alternative en-  
2 ergy devices constructed or installed on or after January 1, 2007.

3 SECTION 10. This 2007 Act takes effect on the 91st day after the  
4 date on which the regular session of the Seventy-fourth Legislative  
5 Assembly adjourns sine die.

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