

Oregon Department of Energy Administrative Rules -Energy Efficient Wildfire Rebuilding Incentive Program

330-260-0000

Purpose

These rules implement an incentive program established by Oregon Laws 2021, chapter 669 (House Bill 5006) for the energy efficient rebuilding of structures damaged or destroyed in the 2020 wildfires. The rules provide procedures for: submitting incentive applications, establishing incentive amounts, agency review of incentive applications, agency verification of project completion, and compliance with the program.

330-260-0010

Definitions

For the purposes of this division, the following definitions apply:

- (1) "Department" means the Oregon Department of Energy.
- (2) "Director" means the director of the Oregon Department of Energy.
- (3) "Household" means all individuals who reside in the place of residence, including all family members and roommates who are not related and not part of a separate lease agreement.
- (4) "Manufactured dwelling" means a factory-built residential structure constructed to federal manufactured housing construction safety standards and installed in accordance with an Oregon-approved installation code (see ORS 446.003). A manufactured dwelling is not a prefabricated structure as defined in ORS 455.010.
- (5) "Multifamily housing structure or facility" means a structure or facility that is established primarily to provide housing that provides three or more living units, and may also provide facilities that are functionally related and subordinate to the living units for use by the occupants in social, health, educational or recreational activities.
- (6) "Owner" means the legal owner of the structure at the time of the application for an incentive.
- (7) "Residential structure" means one of the following:
 - (a) A detached one- or two-family dwelling;
 - (b) A townhouse not more than three stories above grade plane in height;
 - (c) A detached owner-occupied lodging house containing not more than five guest rooms; or
 - (d) An accessory dwelling unit.
- (8) "Utility incentive" means financial assistance that lowers the capital cost of a residential or commercial structure or heat pump system and that is provided directly from an electric utility as defined in ORS 757.600 or from funds provided by the Energy Trust of Oregon pursuant to ORS 757.612.

330-260-0020

Structure Eligibility

To be eligible for incentives under these rules, an application must meet the following requirements:

(1) The owner must be altering, restoring, or replacing a structure in Oregon determined by the local government as having been damaged or destroyed by wildfire between August 1 and September 30, 2020.

(2) The local government must have approved one of the following:

(a) A building permit application to alter, restore, or replace a structure; or

(b) A site permit application for a manufactured dwelling.

(3) The local government must have determined that the evidence in the record established that a dwelling at the time it was damaged or destroyed:

(a) Had intact exterior walls and roof structure;

(b) Had indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(c) Had interior wiring for interior lights;

(d) Had a heating system; and

(e) (A) Was authorized by building permits or other regulatory approval process by the appropriate authority; or

(B) Was assessed as a residential dwelling for purposes of ad valorem taxation for the tax year beginning July 1, 2001, and is not subject to unresolved enforcement proceedings questioning the lawfulness of the dwelling.

(4) The structure being altered, restored, or replaced must be:

(a) A residential structure;

(b) A manufactured dwelling;

(c) A multifamily housing structure or facility; or

(d) A commercial or public building.

(5) An owner who completed the alteration, restoration, or replacement of a structure prior to applying to the incentive program is eligible for incentives, provided they meet all other applicable eligibility requirements.

330-260-0030

Incentives for Residential Structures

(1) An owner that is altering, restoring, or replacing an eligible residential structure shall be eligible to receive an incentive of \$3,000 per eligible structure if:

- (a) The dwelling has been determined by a local government as being adequately served by water, sanitation and roads;
- (b) The dwelling is located within the same lot or parcel as the original dwelling being altered, restored, or replaced;
- (c) The alteration, restoration, or replacement is complete;
- (d) The dwelling meets the Oregon Residential Specialty Code in effect as specified in OAR 330-260-0030(5) and as administered by Oregon’s Building Codes Division and local jurisdictions, including all energy efficiency requirements; and
- (e) The applicable local jurisdiction code official has verified the completion of the alteration, restoration, or replacement of the structure to the required building code including all energy efficiency requirements.
- (2) An owner that is altering, restoring, or replacing an eligible residential structure shall be eligible to receive an incentive of \$3,000 per eligible structure in addition to the amount they may be eligible to receive under OAR 330-260-0030(1) if:
- (a) The dwelling has been determined by a local government as being adequately served by water, sanitation and roads;
- (b) The dwelling is located within the same lot or parcel as the original dwelling being altered, restored, or replaced;
- (c) The alteration, restoration, or replacement is complete;
- (d) The dwelling meets the 2021 Oregon Residential Reach Code or is participating in a utility new homes energy efficiency program as specified in OAR 330-260-0030(6);
- (e) Any required utility inspections have been completed following completion of a utility new homes energy efficiency program; and
- (f) The applicable local jurisdiction code official has verified the completion of the alteration, restoration, or replacement of the structure to the required building code including energy efficiency standards.
- (3) An owner that demonstrates in their application they meet low- or moderate-income eligibility requirements specified in OAR 330-260-0060 shall be eligible for an additional incentive of \$4,500 if they qualify for an incentive under OAR 330-260-0030(1) but not (2).
- (4) An owner that demonstrates in their application they meet low- or moderate-income eligibility requirements specified in OAR 330-260-0060 shall be eligible for an additional incentive of \$9,000, if they qualify for an incentive under OAR 330-260-0030(2).
- (5)(a) For building permit applications submitted prior to April 1, 2021, the Oregon Residential Specialty Code in effect is the 2017 Oregon Residential Specialty Code.

(b) For building permit applications submitted on or between April 1, 2021, and September 30, 2021, both the 2017 and 2021 Oregon Residential Specialty Code are considered in effect and are eligible to receive incentives.

(c) For building permit applications submitted beginning October 1, 2021, the Oregon Residential Specialty Code in effect is the 2021 Oregon Residential Specialty Code.

(6) Participating in one of the following above energy code programs qualifies the owner for an incentive under OAR 330-260-0030(2)(d):

(a) Energy Trust of Oregon's Energy Performance Score Program.

(b) Bonneville Power Administration's Single Family New Construction Performance Path.

(c) Consumer Owned Utility energy efficiency new homes program verifying homes are 10 percent more energy efficient on a site energy consumption basis.

(7) An owner that is altering, restoring, or replacing an eligible residential structure shall be eligible to receive an incentive of \$3,000 in addition to the amount they may be eligible to receive under OAR 330-260-0030(1) or OAR 330-260-0030(2) for each new accessory dwelling unit that meets the above current energy code building standard or is participating in a utility new homes energy efficiency program as specified in OAR 330-260-0030(6) that they build within the same property lot or parcel as the altered, restored, or replacement structure. A maximum of two incentives for accessory dwelling units can be applied for per application, unless the local jurisdiction permits fewer accessory dwelling units on a property, in which case the number of accessory dwelling units permitted per property is the maximum.

330-260-0040

Incentives for Commercial and Public Buildings and Multifamily Housing

(1) An owner that is altering, restoring, or replacing an eligible commercial or public building, or multifamily housing structure or facility shall be eligible to receive an incentive of \$3,000 per eligible structure if:

(a) The structure is located within the same lot or parcel as the original structure being altered, restored, or replaced;

(b) The alteration, restoration, or replacement is complete;

(c) The structure meets the Oregon Structural Specialty Code in effect as specified by OAR 330-260-0040(5) and as administered by Oregon's Building Codes Division and local jurisdictions, including all energy efficiency requirements;

(d) The commercial or public building, or multifamily housing structure or facility is 25,000 square feet or less in conditioned space; and

(e) The applicable local jurisdiction code official has verified the completion of the alteration, restoration, or replacement of the structure to the required building code including all energy efficiency requirements.

(2) An owner that is altering, restoring, or replacing an eligible commercial or public building, or multifamily housing structure or facility shall be eligible to receive an incentive of \$4,000 per eligible structure if:

(a) The structure is located in the same lot or parcel as the original structure being altered, restored, or replaced;

(b) The alteration, restoration, or replacement is complete;

(c) The structure meets the Oregon Structural Specialty Code in effect as specified by OAR 330-260-0040(5) and as administered by Oregon's Building Codes Division and local jurisdictions, including all energy efficiency requirements;

(d) The commercial or public building, or multifamily housing structure or facility is 25,001 square feet or more in conditioned space; and

(e) The applicable local jurisdiction code official has verified the completion of the alteration, restoration, or replacement of the structure to the required building code including all energy efficiency requirements.

(3) An owner of a multifamily housing structure or facility providing housing to low-income households may qualify for an additional incentive to any they may qualify for under OAR 330-260-0040(1) or (2). The incentive will be determined based upon the number of multifamily units in the designed structure being rebuilt. An incentive of \$500 per unit is available, not to exceed \$18,000 for the property.

(4) To be a qualified multifamily housing structure or facility under OAR 330-260-0040(3), the owner or developer must be currently qualified under one of the following programs offered through the Oregon Housing and Community Services Department and be approved for an incentive by the Director of the Oregon Department of Energy:

(a) A housing capital funding offering issued through a Notice of Funding Availability.

(b) Low Income Housing Tax Credits.

(c) Oregon Multifamily Energy Program.

(d) Conduit/Pass-Through Revenue Bond Financing Program.

(e) Local Innovation and Fast Track Housing Program.

(f) Loan Guarantee Program and General Guarantee Program.

(g) Oregon Rural Rehabilitation Loan Program.

(h) Low Income Weatherization Assistance Program.

(i) Wildfire programs developed via HB 5006 of the 2021 Oregon Legislative Session.

(5)(a) For building permit applications submitted prior to October 1, 2021, the 2019 Oregon Zero Energy Ready Commercial Code (OZERCC) or applicable statewide alternate methods is in effect.

(b) For building permit applications submitted on or after October 1, 2021, the 2021 Oregon Energy Efficiency Specialty Code (OEESC) is in effect.

(6) An owner that is altering, restoring, or replacing an eligible commercial or public building, or multifamily housing structure or facility shall be eligible to receive an incentive of \$5,000 per eligible structure, in addition to the amount they may be eligible to receive under OAR 330-260-0040(1) if:

(a) The structure is located within the same lot or parcel as the original structure being altered, restored, or replaced;

(b) The alteration, restoration, or replacement is complete;

(c) The structure is participating in an above energy code building program, as specified in OAR 330-260-0040(8);

(d) The commercial or public building, or multifamily housing structure or facility is 25,000 square feet or less in conditioned space;

(e) Any required inspections have been completed following completion of an above energy code building program; and

(f) The applicable local jurisdiction code official has verified the completion of the alteration, restoration, or replacement of the structure to the required building code including energy efficiency standards.

(7) An owner that is altering, restoring, or replacing an eligible commercial or public building, or multifamily housing structure or facility shall be eligible to receive an incentive of \$6,000 per eligible structure in addition to the amount they may be eligible to receive under OAR 330-260-0040(2) if:

(a) The structure is located within the same lot or parcel as the original structure being altered, restored, or replaced;

(b) The alteration, restoration, or replacement is complete;

(c) The structure is participating in an above energy code building program, as specified in OAR 330-260-0040(8); and

(d) The commercial or public building, or multifamily housing structure or facility is 25,001 square feet or more in conditioned space;

(e) Any required inspections have been completed following completion of an above energy code building program; and

(f) The applicable local jurisdiction code official has verified the completion of the alteration, restoration, or replacement of the structure to the required building code including energy efficiency standards.

(8) Qualifying above energy code building programs include:

(a) Energy Trust of Oregon's New Buildings Program.

(b) Bonneville Power Administration's Commercial New Multifamily Construction Program.

(c) Consumer Owned Utility energy efficiency commercial programs verifying commercial structures are 10 percent more energy efficient or greater than code on a site energy consumption basis.

330-260-0050

Incentives for Manufactured Dwellings

(1) An owner replacing a destroyed or damaged manufactured dwelling or residential structure shall be eligible for an incentive of \$12,500 at the time of purchase of a new energy efficient manufactured dwelling if:

(a) The new manufactured dwelling will be sited within:

(A) The same lot or parcel as the original residential structure;

(B) The same mobile home or manufactured dwelling park as the original manufactured dwelling; or

(C) A mobile home or manufactured dwelling park established to house wildfire survivors as determined by the director in consultation with Oregon Housing and Community Services and relevant local governments; and

(b) The new manufactured dwelling meets or exceeds the NEEM 1.1 code for energy efficiency, or the owner is participating in one of the following qualified energy efficient manufactured dwelling replacement programs:

(A) Oregon Housing and Community Services Manufactured Home Replacement Loan Program.

(B) Energy Trust of Oregon Manufactured Home Replacement Program.

(C) Bonneville Power Administration's Manufactured Home Replacement Program.

(D) Oregon Consumer Owned Utility new manufactured home program.

(2) A new or previously owned manufactured dwelling purchased to replace a manufactured dwelling or residential structure damaged or destroyed in the 2020 wildfires may qualify for an incentive of up to \$5,000 for the installation of a new heat pump system, or by supplementing or replacing an existing heating system with a heat pump system.

- (a) The appropriate heat pump system type and sizing of the system must be determined by a qualified contractor.
- (b) The heat pump system must be installed by a qualified contractor, as outlined in OAR 330-260-0070.
- (c) The heat pump system must have a baseline efficiency of 9.0 HSPF, SEER of 14, and be properly sized to the structure.
- (d) Utility and Department incentives for installation of a new heat pump, supplementing or replacing an existing heating system may not exceed the installation cost of the system.
- (e) The manufactured dwelling must be sited within:
 - (A) The same lot or parcel as the original residential structure;
 - (B) The same mobile home or manufactured dwelling park as the original manufactured dwelling; or
 - (C) A mobile home or manufactured dwelling park established to house wildfire survivors as determined by the director in consultation with Oregon Housing and Community Services and relevant local governments.
- (3) If a manufactured homeowner has replaced their manufactured home or upgraded the heating and cooling system with a heat pump system prior to applying for this incentive program, they shall be eligible to receive an incentive provided they meet all other applicable eligibility requirements.

330-260-0060

Low- or Moderate-Income Eligibility

To qualify for an incentive offered under the program for low- or moderate-income residential structure owners, the owner must provide proof of eligibility. Proof of eligibility must be provided in one of the following ways:

- (1) An owner will be considered eligible if the Department verifies with the Oregon Housing and Community Services Department that the owner, at the time of applying for an incentive, is eligible or was eligible in the three years prior to February 1, 2022, for one of the following Oregon Housing and Community Services Department programs:
 - (a) Low Income Home Energy Assistance Program (LIHEAP).
 - (b) Oregon Energy Assistance Program (OEAP).
 - (c) Low Income Weatherization Assistance Program (LIWAP).
- (2) An owner will be considered eligible if the owner provides the Department an eligibility notice for the owner's household for one of the following Oregon Department of Human Services or Oregon Health Authority programs that was received during the seven months prior to applying for an incentive with the Oregon Department of Energy:

(a) Supplemental Nutrition Assistance Program (SNAP).

(b) Oregon Health Plan (OHP) (Medicaid).

(c) Children's Health Insurance Program (CHIP; this option is available only for households consisting of six or fewer people).

(3) An owner will be considered eligible if they provide the Department with either an Oregon Department of Revenue tax transcript or US Internal Revenue Service tax transcript for each tax filer residing at the household for the most recent tax filing year immediately preceding the current year, or the transcript for the year prior if the tax return for the most recent tax filing year has not yet been filed, that demonstrates their household income is less than or equal to whichever of the following is greater:

(a) 100 percent of state median income adjusted for household size; or

(b) 100 percent of the county median income adjusted for household size.

(4) An owner will be considered eligible if the Department verifies the owner meets the incentive program's low- or moderate-income eligibility requirements or equivalent income levels with an organization, such as a local community action agency, that the Department has established an agreement with. Methods by which an organization that the Department has established an agreement with may verify a person meets the requirements in OAR 330-260-0060 or demonstrates equivalent income levels will be established in the agreement between organization and Department.

330-260-0070

HVAC Contractor Participation and Eligibility

(1) To participate in the incentive program and offer to install a heat pump in a rebuilding manufactured home, a contractor must meet the eligibility requirements provided in these rules.

(2) A contractor that installs a heat pump system must hold any license, bond, insurance, or permit required to install a heat pump system and submit any requested appropriate documentation to the Department to be eligible to participate in the program. The contractor performing the installation must maintain all applicable licenses, bonds, insurance or permits throughout the construction, installation, and warranty period. Identification on one of the following lists can substitute for the need to submit appropriate documentation:

(a) The contractor is listed as an Energy Trust of Oregon heat pump trade ally who is currently eligible to apply for Energy Trust of Oregon incentives on behalf of customers.

(b) The contractor is identified as an approved heat pump installer on a list maintained by a consumer owned electric utility as defined in ORS 757.600 serving customers in one of the 2020 wildfire impacted areas.

(c) The contractor is identified as an approved ductless heat pump installer on a list maintained by the NW Ductless Heat Pump Project serving customers in one of the 2020 wildfire impacted areas.

(3) The Department reserves the right to verify all applicable licenses, bonds, insurance, permits or certifications of a contractor at any time, including a contractor's status with utility or energy efficiency programs.

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330-260-0080**Incentive Application**

(1) The Department may begin accepting wildfire rebuilding incentive applications February 1, 2022. The Department may continue to accept new incentive applications throughout the duration of the program until all funds allocated to the program have been committed or prior to June 1, 2023, whichever comes first.

(2) An incentive application must be submitted using a form specified by the Department, be completed in full, and include the following at a minimum:

(a) Structure owner's name.

(b) Site address.

(c) Mailing address (if different from site address).

(d) Telephone number and email address of owner when possible.

(e) Type of structure being rebuilt.

(f) The incentives being applied for.

(g) Building permit number, project tracking, sales or identification number, if applicable.

(h) If applicable, evidence the Department deems sufficient to demonstrate applicant meets requirements under OAR 330-260-0060 to be eligible for low-income incentives.

(i) If applicable, evidence the Department deems sufficient to demonstrate compliance with above code energy standards or participation in a utility new homes energy efficiency program.

(j) If applicable, evidence the Department deems sufficient to demonstrate eligibility for the incentive available under OAR 330-260-0050(1) for the purchase of a new energy efficient manufactured dwelling.

(k) Other information and documentation requested by the Department that is necessary to process and verify the application.

(3) In addition to the information requested in OAR 330-260-0080(2), the following information is also required on an application for an incentive for heat pump system installation in a manufactured dwelling:

(a) Appropriate information regarding existing heating system.

(b) Proposed heat pump system including its efficiency and configuration.

(c) Total installed cost.

(d) If applicable, participation in a utility heat pump program and utility incentives received.

(e) Other information and documentation requested by the Department that is necessary to process and verify the application.

- (4) The Department reserves the right to request additional information or documentation that the Department deems necessary to process and verify the application.
- (5) The Department may require a response to any request for additional information or documentation within 30 days of the Department's correspondence.
- (6) A structure must have a rebuilding permit and application submitted to the Oregon Department of Energy prior to June 1, 2023, to receive an incentive.
- (7) The Department reserves the right to verify all applicable licenses, bonds, insurance, permits, or certifications of a contractor or owner at any time.

330-260-0090

Incentive Reservation Process

- (1) If the necessary funds are available the Department shall reserve the requested incentive for the owner upon receipt of a complete application form.
- (2) An owner may amend the requested incentive.
- (3) An incentive amendment application must be received prior to the Department distributing funds to the owner or prior to June 1, 2023, whichever is earliest.
- (4) The Department shall review applications to ensure all requested information is included before any incentive is released. The Department reserves the right to request additional information or documentation that the Department deems necessary to process and verify the application.
- (5) An amended incentive application must be submitted in the manner specified by the Department and include the following at a minimum:
 - (a) Structure owner's name.
 - (b) Site address.
 - (c) Mailing address (if different from site address).
 - (d) Telephone number and email address of owner when possible.
 - (e) Type of structure being rebuilt.
 - (f) The changes to the incentives being applied for.
 - (g) Building permit number, project tracking, sales or identification number, if applicable.
 - (h) Other information and documentation requested by the Department that is necessary to process and verify the change in the application.
- (6) Any increase in the level of incentive applied for is subject to the availability of funds at the date the amended application is received.

330-260-0100**Completion and Verification**

- (1) To receive the incentive the owner must notify the Department that the eligible structure has been rebuilt to the specified building code and energy efficiency requirements, and received occupancy approval by local jurisdiction code officials.
- (2) The rebuilding incentive will be available following Department receipt of proof of occupancy by local jurisdiction code officials and any required verification of completion by a utility company if the owner is participating in an above energy code utility program.
- (3) After Department receipt of proof of the completion and verification, from the Department, electric utility, local jurisdiction code official, or state agency representative of installation of a qualifying manufactured home, or qualifying heat pump installation in a replacement manufactured home, the owner may receive their eligible incentive.
- (4) To receive an incentive, the project must be complete and the Department must receive notification prior to December 1, 2024.

330-260-0110**Compliance**

- (1) The owner, or their contractor representative, are responsible for completing all required building code inspections and incorporating all energy efficiency measures included in the original, or amended, plan designs.
- (2) The owner, or their contractor representative, are responsible for completing all required utility verification inspections to participate in utility above code energy efficiency programs.
- (3) The Department reserves the right to conduct a physical inspection of all sites that have received an incentive and to audit all documentation relating to a project receiving an incentive.
- (4) The Director may order the revocation of an incentive or portion of an incentive under the program if the Director finds that the incentive was obtained by fraud or misrepresentation, or by mistake or miscalculation by the applicant or Department. As soon as the order of revocation becomes final, the Department shall proceed to recover the incentive or portion of the incentive that is subject to the order of revocation. All moneys provided to an owner or contractor attributable to the fraudulently or mistakenly obtained incentive or portion of the incentive shall be forfeited.
- (5) A person aggrieved by a decision of the Director to revoke or reduce the amount of an incentive may request a contested case hearing under ORS Chapter 183 (Administrative Procedures Act).