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## PERMANENT ADMINISTRATIVE ORDER

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DEPARTMENT OF ENERGY

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### RULES:

330-240-0000, 330-240-0010, 330-240-0020, 330-240-0030, 330-240-0040, 330-240-0050, 330-240-0060, 330-240-0070, 330-240-0100, 330-240-0110, 330-240-0120, 330-240-0130, 330-240-0140, 330-240-0150, 330-240-0160, 330-240-0170

ADOPT: 330-240-0000

RULE TITLE: Purpose and Applicability of Rules in Division 240

NOTICE FILED DATE: 10/30/2019

RULE SUMMARY: This rule is a statement of purpose and applicability for the new Division 240 rules which implement House Bill 2618 (2019) to establish a solar plus storage rebate program.

### RULE TEXT:

(1) The purpose of these rules is to implement a solar plus storage rebate program established by Oregon Laws 2019, chapter 655 (House Bill 2618). The rules provide procedures for: submitting reservation and rebate requests, calculating rebate amounts, agency review of reservation and rebate requests, and agency audits and inspections to ensure compliance.

(2) The eligibility requirements in these rules apply to any contractor, customer, or installation associated with an application to reserve or claim a rebate under the program.

STATUTORY/OTHER AUTHORITY: Oregon Laws 2019 chapter 655 (House Bill 2618), ORS 469.040

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2019 chapter 655 (House Bill 2618)

ADOPT: 330-240-0010

RULE TITLE: Definitions for Division 240

NOTICE FILED DATE: 10/30/2019

RULE SUMMARY: This rule provides definitions of terms used in rules in the new Division 240 rules to create a solar plus storage rebate program.

RULE TEXT:

- (1) "Completion date" means the date as of which a solar electric system or paired solar and storage system has passed its final inspection by the authority having jurisdiction.
- (2) "Contractor" has the definition given in Oregon Laws 2019 Chapter 655 Section 1(1) and means a person whose trade or business consists of offering for sale solar electric systems or paired solar and storage systems or of providing construction, installation, or design services for solar electric systems or paired solar and storage systems.
- (3) "DC" means direct current electricity.
- (4) "Department" means the Oregon Department of Energy.
- (5) "Director" means the director of the Oregon Department of Energy.
- (6) "Eligible project cost" means the costs allowed for determining the rebate, including solar photovoltaic modules, mounting structure and hardware, associated electrical equipment, energy storage system equipment, and labor costs.
- (7) "Energy storage system" has the definition given in Oregon Laws 2019 Chapter 655 Section 1(3) and means commercially available technology that is capable of retaining energy, storing the energy for a period of time, and transmitting the energy after storage.
- (8) "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.
- (9) "Ineligible project cost" means the costs not allowed for determining the rebate, including, but not limited to, financing charges, maintenance costs, service contracts, extended warranties, reroofing, or costs for auxiliary distribution systems such as electric vehicle charging stations.
- (10) "Low- or moderate-income residential customer" means a residential electrical utility customer whose household income is less than or equal to 100 percent of state median income adjusted for household size.
- (11) "Net cost" has the definition given in Oregon Laws 2019 Chapter 655 Section 1(5) and means the actual cost of the purchase, construction, and installation of a solar electric system or a paired solar and storage system, minus any incentive received for the system from the electric utility serving the customer for which the system is installed.
- (12) "Paired solar and storage system" has the definition given in Oregon Laws 2019 Chapter 655 Section 1(6) and means a solar electric system and an energy storage system purchased, constructed, and installed together by the same contractor and paired such that the energy storage system is capable of providing storage capacity for electrical energy produced by the solar electrical system.
- (13) "Program" means the solar plus storage rebate program established by Oregon Laws 2019, chapter 655 (House Bill 2618).
- (14) "Purchase date" means the date that a contract for purchase of a solar energy system or paired solar and storage system is signed by both the contractor and the customer for which the system is installed.
- (15) "Residential paired solar and storage system" means a set of standalone components necessary to collect and deliver solar and storage energy to a dwelling. Systems qualifying for residential rebates may not be part of a larger system or share components such as racking with other solar electric or paired solar and storage systems.
- (16) "Residential solar electric system" means a set of standalone components necessary to collect and deliver solar energy to a dwelling. A system qualifying for a general residential or low- or moderate-income residential rebate may not be part of a larger system or share components such as racking with other solar electric or paired solar and storage systems.
- (17) "Solar electric system" has the definition given in Oregon Laws 2019 Chapter 655 Section 1(7) and means any system, mechanism or series of mechanisms, including photovoltaic systems, that uses solar radiation to generate

electrical energy.

(18) "Utility incentive" means financial assistance that lowers the capital cost of a solar electric system or paired solar and storage 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.

STATUTORY/OTHER AUTHORITY: ORS 469.040, Oregon Laws 2019 chapter 655 (House Bill 2618)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2019 chapter 655 (House Bill 2618)

ADOPT: 330-240-0020

RULE TITLE: Contractor Eligibility

NOTICE FILED DATE: 10/30/2019

RULE SUMMARY: This rule provides eligibility requirements for contractors who wish to participate in the solar plus storage rebate program. The enabling legislation for the program requires contractors to maintain and document that they hold certain certifications, and authorizes the Department to establish additional certification requirements in rule. This rule also creates a process for contractors to register with the Department in order to receive login credentials for the Department's software system used to administer the program.

RULE TEXT:

(1) In order to participate in the program, a contractor must meet the eligibility requirements provided in these rules. Once the Department has confirmed a contractor's eligibility, the contractor will receive login credentials to use the software system designated by the Department to receive and track reservation applications.

(2) The Department may begin accepting contractor registrations January 1, 2020. The Department may continue to accept new contractor registrations throughout the duration of the program until all funds allocated to the program have been spent or the sunset of the program, whichever comes first.

(3) A contractor must meet the eligibility requirements listed below and submit appropriate documentation to the Department. The Department will verify the completeness and accuracy of information submitted by a contractor as part of the contractor registration process.

(a) A contractor that constructs or installs a solar electric system or paired solar and storage system, or a subcontractor that constructs or installs a solar electric system or paired solar and storage system on behalf of a contractor that offers such systems for sale, must hold any license, bond, insurance or permit required to construct or install a solar electric system or a paired solar and storage system. The contractor or any subcontractors performing construction or installation must maintain all applicable licenses, bonds, insurance or permits throughout the construction and installation period until the solar electric system or paired solar and storage system is complete.

(b) If the contractor is an Energy Trust of Oregon solar trade ally, the contractor must have at least four stars in the five-star Energy Trust of Oregon rating system.

(c) If the contractor is not an Energy Trust of Oregon solar trade ally, the contractor must meet at least one of the following requirements:

(A) The contractor either holds, or employs an individual holding, the PV Installation Professional (PVIP) certification administered by the North American Board of Certified Energy Practitioners (NABCEP), or the contractor employs both a PV Installer Specialist (PVIS) certified by NABCEP and a person with the NABCEP PV Technical Sales (PVTS) certification.

(B) The contractor is identified as an approved solar PV installer on a list maintained by an electric utility as defined in ORS 757.600 serving customers in Oregon.

(4) The Department reserves the right to verify all applicable licenses, bonds, insurance, permits or certifications of a contractor at any time.

STATUTORY/OTHER AUTHORITY: ORS 469.040, Oregon Laws 2019 chapter 655 (House Bill 2618)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2019 chapter 655 (House Bill 2618)

ADOPT: 330-240-0030

RULE TITLE: Project Eligibility

NOTICE FILED DATE: 10/30/2019

RULE SUMMARY: This rule provides eligibility requirements for solar electric systems and paired solar and storage systems in order to be eligible to receive a rebate under the program.

RULE TEXT:

(1) To be eligible for a rebate for the sale, construction, or installation of a solar electric system or a paired solar and storage system, the system must meet the following requirements:

(a) The solar electric system or paired solar and storage system must be installed by an eligible contractor. The contractor may use subcontractors in the construction or installation of a solar electric system or paired solar and storage system; however, all firms and individuals working on the construction or installation of a solar electric system or paired solar and storage system, whether working on behalf of the contractor or a subcontractor, must hold any license, bond, insurance or permit required for the work performed.

(b) In the case of a paired solar and storage system, the solar electric system and energy storage system must be purchased together from the same eligible contractor.

(c) In the case of a paired solar and storage system, the solar electric system and associated energy storage must be constructed and installed together by the same eligible contractor or a subcontractor working for the eligible contractor, as provided in subparagraph (a), such that the energy storage system is capable of providing storage capacity for electrical energy produced by the solar electric system.

(d) In the case of a paired solar and storage system, the system must include a minimum of one kilowatt DC of solar electric nameplate capacity for every five kilowatt-hours of battery storage.

(e) The purchase contract for a solar electric system or paired solar and storage system must be signed on or after January 1, 2020.

(f) A contractor must submit a reservation application before starting construction or installation of a solar electric system or paired solar and storage system in order to be eligible for a rebate.

(g) The solar electric system or paired solar and storage system must be installed on real property in Oregon.

(h) The solar electric system or paired solar and storage system must benefit a residential customer or a low-income service provider as defined in these rules.

(i) The solar electric system or paired solar and storage system must consist of new equipment.

(j) In the case of a solar electric system, the system must contain all components necessary to convert and deliver solar energy into electrical energy for use in a dwelling or commercial application.

(k) Equipment purchased for a solar electric system or a paired solar and storage system must include a manufacturer warranty covering the following:

(A) The photovoltaic inverters for a minimum of five years against manufacturer's defects

(B) Photovoltaic modules for a minimum of 20 years against degradation of performance below 80 percent of original output under standard test conditions

(l) All installations of a solar electric system or paired solar and storage system must include a total system workmanship warranty that covers the installation of solar panels, inverters, racking, patented roof protection systems, roof penetrations, batteries, electrical and mechanical parts, and wiring for the duration of at least five years.

(m) Any equipment installed as part of a solar electric system or paired solar and storage system must meet industry standards and the technical specifications provided in these rules.

(n) The solar electric system or paired solar and storage system must have received all applicable electrical and structural permits from the local jurisdiction and must pass all final inspections conducted by the authority having jurisdiction.

(o) The solar electric system or paired solar and storage system must follow electric utility-specific rules and regulations.

(p) The Total Solar Resource Fraction ("TSRF") shall be calculated for each PV array and provided to the Department for reporting in the Department's designated software system. All installations must meet the following minimum performance standards.

(A) For on-site shade analysis the TSRF must be 75 percent or greater at all points on the PV array.

(B) For remote shade analysis the TSRF must be 80 percent or greater for the roof plane where the PV array is located.

(C) The Department reserves the right to request documentation from a solar site analysis tool and to conduct independent verification of TSRF values.

(q) Under no circumstances will more than one rebate be issued under the program for the same solar electric system or paired solar and storage system.

STATUTORY/OTHER AUTHORITY: ORS 469.040, Oregon Laws 2019 chapter 655 (House Bill 2618)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2019 chapter 655 (House Bill 2618)

ADOPT: 330-240-0040

RULE TITLE: Solar Electric System Technical Specifications

NOTICE FILED DATE: 10/30/2019

RULE SUMMARY: This proposed rule lists technical specifications that are requirements for solar electric systems to receive a rebate under the program.

RULE TEXT:

- (1) All installed photovoltaic modules must be certified to UL 1703 or IEC61730 standards or other comparable standards.
- (2) All installed photovoltaic inverters must be certified to UL 1741.
- (3) The Department will consider the eligibility of equipment for solar electric systems that do not interconnect with the local utility's distribution grid on a case-by case basis.

STATUTORY/OTHER AUTHORITY: ORS 469.040, Oregon Laws 2019 chapter 655 (House Bill 2618)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2019 chapter 655 (House Bill 2618)

ADOPT: 330-240-0050

RULE TITLE: Energy Storage System Technical Specifications

NOTICE FILED DATE: 10/30/2019

RULE SUMMARY: This proposed rule lists technical specifications that are requirements for an energy storage system that is part of a paired solar and storage system in order to receive a rebate under the program.

RULE TEXT:

(1) All batteries must be certified to UL 1973.

(2) All battery storage systems must be certified to UL 9540.

(3) The Department will consider the eligibility of energy storage equipment for paired solar and storage systems that do not interconnect with the local utility's distribution grid on a case-by case basis.

STATUTORY/OTHER AUTHORITY: ORS 469.040, Oregon Laws 2019 chapter 655 (House Bill 2618)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2019 chapter 655 (House Bill 2618)



ADOPT: 330-240-0060

RULE TITLE: Low- or Moderate-Income Residential Customer Eligibility

NOTICE FILED DATE: 10/30/2019

RULE SUMMARY: This proposed rule requires a residential customer to provide proof of eligibility in order to receive a higher rebate rate offered under the program for low- or moderate-income residential customers.

RULE TEXT:

(1) In order to qualify for the rebate rate offered under the program for low- or moderate-income residential customers, the homeowner where the installation will be located must provide proof of eligibility.

(2) The Department will maintain a list of income-limited programs which are administered by state or local public agencies or non-profit organizations and whose participants meet the eligibility requirements of the program. The Department will provide a form listing the qualifying programs to contractors. A homeowner may certify that the owner(s) of the property where the installation will occur is currently qualified for one or more of the programs listed. The contractor and all legal owners of the property must sign the form, certifying that the information is accurate. The contractor must submit the form, or a scanned copy of the form, to the Department as part of the reservation application. The Department will verify the homeowner's eligibility with the administering agency of the programs certified by the homeowner.

STATUTORY/OTHER AUTHORITY: ORS 469.040, Oregon Laws 2019 chapter 655 (House Bill 2618)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2019 chapter 655 (House Bill 2618)

ADOPT: 330-240-0070

RULE TITLE: Low-Income Service Provider Eligibility

NOTICE FILED DATE: 10/30/2019

RULE SUMMARY: This proposed rule includes eligibility criteria in order for a community service organization to be eligible to receive preference as a low-income service provider under the program.

RULE TEXT:

Organizations eligible as a "low-income service provider" under the program include the following:

- (1) A developer or owner of affordable multifamily housing eligible to receive public assistance under one or more housing development or rental assistance programs administered by Oregon Housing and Community Services.
- (2) A community service organization, which is a public or tribal entity, or a private entity organized under section 501(c) of the federal tax code, whose primary purpose is to offer health, dental, social, financial, energy conservation, or other assistive services to individuals or households with incomes at or below 100 percent of the state median income by household size. Examples of eligible organizations include health or dental clinics, food banks, homeless shelters, childcare centers, senior citizen centers, and community action partnership agencies that serve low- or moderate-income individuals and households, or as approved by the Director. The entity must provide documentation to the Department that it provides assistive services to low- or moderate-income individuals. Accepted documentation may include but is not limited to the receipt of public funding for the purpose of providing assistive services to low- or moderate-income individuals or families or the receipt of philanthropic funding that advances a mission to serve low- or moderate-income individuals. A private organization claiming eligibility as a low-income service provider under this subparagraph must provide sufficient information to allow the Department to determine the organization's eligibility by providing documentation to the Department that it provides assistive services to low- or moderate-income individuals.
- (3) A tribal or local government entity such as a city, county or school district which uses public buildings to provide social services to low- or moderate-income individuals, or to provide emergency shelter and/or communications in disaster situations. The entity must provide documentation to the Department that it provides social or emergency services to low- or moderate-income individuals. Accepted documentation may include but is not limited to the receipt of public funding for the purpose of providing assistive services to low- or moderate-income individuals or families or the receipt of philanthropic funding that advances a mission to serve low- or moderate-income individuals.

STATUTORY/OTHER AUTHORITY: ORS 469.040, Oregon Laws 2019 chapter 655 (House Bill 2618)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2019 chapter 655 (House Bill 2618)

ADOPT: 330-240-0100

RULE TITLE: Solar Electric System Rebate Rates; Calculation Method

NOTICE FILED DATE: 10/30/2019

RULE SUMMARY: This proposed rule includes rebate rates and the method for calculating rebates for solar electric systems for four categories of customers: low-or moderate-income residential; general residential (not low- or moderate-income) who are eligible for a utility incentive; general residential (not low- or moderate-income) who are not eligible for a utility incentive; and low-income service providers.

RULE TEXT:

- (1) Low- or moderate- income residential rebate rate: \$1.80 per watt DC of installed capacity, up to 60 percent of the net cost or \$5,000, whichever is less.
- (2) Residential rebate rate for customers eligible for an electric utility incentive and not low- or moderate-income: \$0.20 per watt DC of installed capacity, up to 40 percent of the net cost or \$5,000, whichever is less.
- (3) Residential rebate rate for customers not eligible for a utility incentive and not low- or moderate-income: \$0.50 per watt DC of installed capacity, up to 40 percent of the net cost or \$5,000, whichever is less.
- (4) Low-income service provider rebate rate: \$0.75 per watt DC of installed capacity, up to 50 percent of the net cost or \$30,000, whichever is less.

STATUTORY/OTHER AUTHORITY: ORS 469.040, Oregon Laws 2019 chapter 655 (House Bill 2618)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2019 chapter 655 (House Bill 2618)

ADOPT: 330-240-0110

RULE TITLE: Energy Storage System Rebate Rates; Calculation Method

NOTICE FILED DATE: 10/30/2019

RULE SUMMARY: This proposed rule includes rebate rates and the method for calculating a rebate for an energy storage system that is purchased and installed as part of a paired solar and storage system. There are three categories of customers with different rebate rates: low- or moderate-income residential; general residential (not low- or moderate-income); and low-income service providers.

RULE TEXT:

- (1) Low- or moderate-income residential customer rebate rate: \$300 per kilowatt hour of installed storage capacity, up to 60 percent of net energy storage system cost or \$2,500, whichever is less.
- (2) Residential rebate rate for residential customers who are not low- or moderate-income: \$300 per kilowatt hour of installed storage capacity, up to 40 percent of net energy storage system cost or \$2,500, whichever is less.
- (3) Low-income service provider rebate rate: \$300 per kilowatt hour of installed storage capacity, up to 60 percent of net energy storage system cost or \$15,000, whichever is less.

STATUTORY/OTHER AUTHORITY: ORS 469.040, Oregon Laws 2019 chapter 655 (House Bill 2618)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2019 chapter 655 (House Bill 2618)

ADOPT: 330-240-0120

RULE TITLE: Reservation Process

NOTICE FILED DATE: 10/30/2019

RULE SUMMARY: This proposed rule provides administrative procedures for a contractor to reserve a rebate for a customer under the program, including a list of information that the contractor is required to submit for each reservation application.

RULE TEXT:

(1) Contractors must submit an application to reserve a rebate for a solar electric system or a paired solar and storage system using the Department's designated software system. The Department will begin accepting reservation applications on January 22, 2020, from contractors who have established eligibility under the program for contracts entered into on or after January 1, 2020. The schedule for the availability and allocation of rebate funds by customer category is specified in 330-240-0150.

(2) The following information about an installation must be provided to the Department to make a reservation application:

(a) Name of customer

(b) Whether the installation benefits a residential customer or a low-income service provider

(c) Address of installation and unit number, if applicable

(d) Size of the solar electric system

(e) System specifications of the solar electric system, as listed in the Department's software system

(f) Total Solar Resource Fraction, or TSRF, for the photovoltaic array

(g) Size of the energy storage system, if applicable

(h) System specifications for the energy storage system if applicable, as listed in the Department's software system

(i) For a residential customer, whether the customer claims to be qualified as low-income or moderate-income

(j) Eligible project cost for solar electric system

(k) Eligible project cost for energy storage system, if applicable

(l) Whether the project will receive a utility incentive

(m) Amount of utility incentive, if applicable

(n) Date of contract signed between customer and contractor

(o) Copy of the signed contract

(p) Other information as requested by the Department

(3) Reservation applications for low-income service providers must provide the following information in addition to the information in paragraph (2):

(a) For multifamily affordable housing: the state and/or agencies which have awarded public subsidies to the project, the number of units in the project, and the projected occupancy date

(b) For low-income service providers other than multifamily affordable housing: documentation required to verify the organization's eligibility consistent with program rules.

(4) The Department's software system will confirm receipt and will give each reservation application a time and date stamp signifying the time and date the initial reservation application is received. The Department will review reservation applications in the order that they are received, based upon the time and date stamp. The Department will provide written notice to the contractor once a reservation application has been approved or denied.

(5) A reservation for a residential customer installation is valid for 180 days unless extended under OAR 330-240-0130. If a rebate is not claimed within 180 days and the reservation is not extended, the reservation will no longer be valid.

(6) A reservation for a low-income service provider installation is valid for one year unless extended under OAR 330-240-0130. If a rebate is not claimed within one year and the reservation is not extended, the reservation will no longer be valid.

STATUTORY/OTHER AUTHORITY: ORS 469.040, Oregon Laws 2019 chapter 655 (House Bill 2618)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2019 chapter 655 (House Bill 2618)

ADOPT: 330-240-0130

RULE TITLE: Amending or Extending a Reservation

NOTICE FILED DATE: 10/30/2019

RULE SUMMARY: This proposed rule describes the circumstances under which a contractor may amend a reservation or extend a reservation under the program.

RULE TEXT:

- (1) A contractor may make changes to system size or specifications for a solar electric system installation or a paired solar and energy storage system installation after submitting a reservation application and before claiming a rebate.
- (2) If a contractor increases the size of an installation for which a reservation application was previously submitted, such that the customer is eligible for a larger rebate amount than the initial reservation application, the increase in rebate amount is subject to availability of funds as of the date the amended application is approved by the Department.
- (3) If a contractor adds energy storage to a solar electric system already having a reservation for a rebate under the program, such that the installation becomes a paired solar and storage system, the contractor must submit a new reservation application which will receive a new time and date stamp in the Department's software system. The rebate amount for a paired solar and storage system under this paragraph is subject to availability of funds as of the date the new reservation application for the paired solar and storage application is approved by the Department.
- (4) At the end of the 180-day reservation period, the Department may grant one 180-day extension to each reservation upon request for any reason.
- (5) The Department may grant additional 180-day extensions for a reservation for a low-income service provider upon the contractor submitting documentation that the project is making progress toward completion. Such documentation could include evidence that the project is meeting construction benchmarks or maintains valid site construction permits.

STATUTORY/OTHER AUTHORITY: ORS 469.040, Oregon Laws 2019 chapter 655 (House Bill 2618)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2019 chapter 655 (House Bill 2618)

ADOPT: 330-240-0140

RULE TITLE: Making a Rebate Request

NOTICE FILED DATE: 10/30/2019

RULE SUMMARY: This proposed rule provides a process by which a contractor may request a rebate on behalf of a customer upon completion of an installation of a solar electric system or paired solar and storage system.

RULE TEXT:

The eligible contractor seeking a rebate must supply the following information to the Department to convert a reservation into a rebate request:

- (1) Name of customer
- (2) Address of installation and unit number, if applicable
- (3) Description of the equipment included in the solar electric system or paired solar and storage system
- (4) System installation completion date
- (5) Proof of completion, including permits received from the authority having jurisdiction over permitting for the system
- (6) Documentation that the contractor, and any subcontractors who performed installation or construction of the system, has any license, bond, insurance or permit, as well as any additional certification required by the Department, required for the construction or installation undertaken by that contractor or subcontractor
- (7) A statement signed by both the contractor and the customer for whom the solar electric system or paired solar and storage system is installed that the customer has received the full value of the rebate as a reduction in the net cost of the purchase, construction or installation of the system and that the rebate was clearly reflected on an invoice provided to the customer
- (8) Contractor's business mailing address
- (9) Contractor's tax identification number
- (10) Other information requested by Department

STATUTORY/OTHER AUTHORITY: ORS 469.040, Oregon Laws 2019 chapter 655 (House Bill 2618)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2019 chapter 655 (House Bill 2618)



ADOPT: 330-240-0150

RULE TITLE: Allocation of Rebate Funds

NOTICE FILED DATE: 10/30/2019

RULE SUMMARY: This proposed rule describes the process by which the Department will allocate rebate funds under the program. This proposed rule implements the limits provided in HB 2618 for the percentage of rebate funds that may go toward low-income service providers under the bill (capped at 50 percent) and residential customers who are not low- or moderate-income (capped at 75 percent). The proposed rule also sets a cap of 40 on the number of active reservations that any one contractor may have in the Department's reservation software system at a time, 20 in each of two categories: low-income service provider plus low- or moderate-income residential customers; and residential customers who are not low- or moderate-income. The rule sets a timetable for making rebate funds available for reservation by category of customer.

RULE TEXT:

- (1) Subject to limits on the number of reservations per contractor and on the percentage of funding that may be spent under the program for specific categories of installations, the Department will allocate rebate funding within each funding allocation in paragraph (5) according to the order in which reservation applications are approved by the Department. The Department will review applications for reservation in the order in which reservations are submitted by contractors, signified by the time and date stamp for receipt of the reservation application.
- (2) The Department will only reserve funding for a maximum of forty (40) reservations per contractor at a time, consisting of up to twenty reservations in each of two categories:
  - (a) systems for residential customers who are not low- or moderate-income; and
  - (b) systems for low- or moderate-income residential customers or low-income service providers.
- (3) A new reservation application will be rejected by the Department if the contractor already has twenty current reservations in the Department's software system for the category of system for which the contractor is attempting to make a new reservation application. Once a contractor converts a reservation into a rebate request using the Department's software system, the contractor may obtain an additional reservation for that category.
- (4) No more than 75 percent of program funds may be used for rebates benefitting residential customers who are not low- or moderate-income residential customers, except as provided in paragraph (6).
- (5) No more than 50 percent of funds may be used for rebates benefitting low-income service providers.
- (6) The Department will make rebate funds available for reservation according to the following schedule:
  - (a) Projects for low- or moderate-income residential customer: Beginning January 22, 2020, 50 percent of rebate funds will be available for reservation for systems for low- or moderate-income residential customers or low-income service providers.
  - (b) Projects for residential customers that are not low- or moderate income, phase one: Beginning January 22, 2020, 25 percent of rebate funds will be available for reservation for systems for residential customers other than low- or moderate-income residential customers.
  - (c) Projects for residential customers that are not low- or moderate-income, phase two: Beginning April 15, 2020, 25 percent of rebate funds will be made available for reservation for systems for residential customers other than low- or moderate-income residential customers, in addition to any remaining available funds under subparagraph (6)(b).
- (7) The Department may reallocate a portion of funds under subparagraph (6)(a) and make the funds available for reservations for residential projects for residential customers who are not low- or moderate-income after July 22, 2020, subject to the requirement that at least 25 percent of program funds available for issuing rebates in a calendar year be made available to low- or moderate-income residential customers or low-income service providers.
- (8) If total funds spent and allocated for installations for low- or moderate-income residential customers and low-income service providers in a calendar year are less than 25 percent of the program funds available for that year, then the unspent and unallocated funds may be made available for all applicants, including residential customers who are not low- or moderate-income residential customers, in the following year.

(9) The Department will periodically post information on its webpage regarding fund balances, including notification when funds that may be used for specific categories of installations are completely spent in the form of rebates or allocated in the form of reservations.

STATUTORY/OTHER AUTHORITY: ORS 469.040, Oregon Laws 2019 chapter 655 (House Bill 2618)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2019 chapter 655 (House Bill 2618)

ADOPT: 330-240-0160

RULE TITLE: Audits and Inspections; Compliance

NOTICE FILED DATE: 10/30/2019

RULE SUMMARY: This proposed rule provides a process for the Department to audit documentation or to inspect an installation and make a determination as to compliance with program requirements, and for a contractor to correct any discrepancies found during an inspection.

RULE TEXT:

- (1) The Department reserves the right to conduct a physical inspection of all installations and to audit all documentation relating to an installation for which a reservation is made under the program before or after a rebate payment is made to the contractor.
- (2) The Department must provide at least 15 days advance notice before performing a physical inspection of an installation. The owner of the property or the contractor must be present and must provide safe access to inspect the installation. Department inspectors will not inspect areas that they deem to present an unreasonable risk to personal safety.
- (3) The Department will provide a written determination within 30 days to the contractor based upon the inspection.
- (4) If the Department determines that the installation does not meet project eligibility criteria under the program or the project installed does not match the project description entered by the contractor when making a request for a rebate, the contractor will have 30 days from the date they received written notice from the Department to correct and provide proof of correction for any discrepancies found by the Department or to provide written explanation or justification.
- (5) The Department must provide a final determination in writing within 15 days regarding the contractor's written response to the Department's initial determination after an inspection.
- (6) The Department may deny a rebate if a contractor does not resolve issues found in an inspection or audit in a within the time limit established under program rules.
- (7) Pursuant to the procedures for contested case under ORS chapter 183, the Director may order the revocation of a rebate or portion of a rebate under the program if the Director finds that the rebate was obtained by fraud or misrepresentation, or by mistake or miscalculation. As soon as the order of revocation becomes final, the Department shall proceed to recover the rebate or portion of the rebate that is subject to the order of revocation. All moneys provided to a contractor attributable to the fraudulently or mistakenly obtained rebate or portion of the rebate shall be forfeited.

STATUTORY/OTHER AUTHORITY: ORS 469.040, Oregon Laws 2019 chapter 655 (House Bill 2618)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2019 chapter 655 (House Bill 2618)

ADOPT: 330-240-0170

RULE TITLE: Revocation of Contractor Eligibility

NOTICE FILED DATE: 10/30/2019

RULE SUMMARY: This proposed rule provides the conditions under which the Director of the Department may deny or revoke a contractor's eligibility to participate in the program.

RULE TEXT:

The Director may deny or revoke a contractor's eligibility to claim a rebate on behalf of a customer, pursuant to the procedures for a contested case under ORS chapter 183, if the director finds any of the following:

- (1) The contractor's eligibility under OAR 330-240-0020 was obtained by fraud or misrepresentation by the contractor.
- (2) The contractor's performance for installation of solar electric systems or paired solar and storage systems does not meet industry standards
- (3) The contractor has misrepresented to customers either the program or the nature or quality of the solar electric systems or paired solar and storage systems for which rebates are available.

STATUTORY/OTHER AUTHORITY: ORS 469.040, Oregon Laws 2019 chapter 655 (House Bill 2618)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2019 chapter 655 (House Bill 2618)