

Community Heat Pump Deployment Program

2023 Administrative Rulemaking



Hearing Officer Report

Date: January 9, 2023
To: Oregon Department of Energy
From: James Cogle, Rulemaking Coordinator
Subject: Hearing Officer's Report on Rulemaking Hearing
Hearing Date: January 5, 2023
Hearing Location: Online

Rule Filing Caption: Grant program for eligible entities to provide financial assistance for heat pumps and related upgrades.

The rulemaking hearing on the proposed rules was convened at 2:10 p.m. Twenty-nine members of the public attended along with 11 Oregon Department of Energy staff, including the hearing officer. People were asked to state their names, affiliations, and whether they wished to comment on the proposed rules. They were informed of the procedures for taking comments, as well as informed of the hearing being recorded.

Before receiving comment, James Cogle briefly summarized the proposed rules.

Summary of Oral Public Comments

David Harris, Springfield Utility Board: I would request notification be given to the local utilities when a participant is set up to receive grants or funding for their home. Many utilities have ductless heat pump programs already in place and I would prefer that we not double fund a particular individual.

If there are requirements or preferences for limited income households, it would be helpful to have details about qualifications especially with respect to their equity as far as savings, pensions etc., as these may not show up on financial disclosures.

Johnathan Van Roekel, Lake County Resources Initiative: We have our own pilot no cost program, we are affiliated with ETO on that program. One of the things that has come to mind is the misrepresentation or confusion of the product when discussed as a heat pump. We are finding that installed units are not keeping up with sub 40-degree temperatures in many participant's homes. There is some work we need to do internally to clearly market the program. One of the issues we have run into is that it is intended to offset old resistance electric heating. Participants are a little bit confused when it is intended to offset a heating system and it is not keeping up with sub 40-degree temperatures. This could be due to different efficiency standards and different equipment. I am not sure if there is a descriptor where we are looking to offset or replace current or existing heating types, but would recommend erring

on the side of caution regarding the use case of these specific types of units and on efficiency standards.

Thomas Elzinga, Central Electric Cooperative: I would also echo what David from Springfield Utility Board had to say as far as notifying utilities, however, for a different reason because we would supplement those costs with our program dollars and look to stack the incentives and rebates.

Juan J Serpa Muñoz, Eugene Water & Electric Board: I would echo the desire to have utilities notified, depending on our various program structures we can move our own efforts to support the customers.

Written Comments

One comment was submitted from the webinar chat from Joe Hull, Midstate Electric, who stated they agree with the other utilities comments.

Close of Hearing

The hearing was adjourned at 2:43 p.m. The public comment period closed at 5 p.m. on January 6, 2023.

Summary of Written Comments Submitted During Public Comment Period

Respondent	Detail
Tim Davis, Washington County	Transfer current rules 330-280-0020 and 330-280-0030 from the Rental Home Heat Pump Program in their entirety to the Community Heat Pump Deployment Program. The rules there relevant to warranty and CCB and OSHA records are more comprehensive. As they are written in the Rental Program, they provide for less risk to the agency and household. In most areas or regions, the contractors installing devices in the Community Heat Pump Program will most likely be the same installing in the Rental Home Program, thus the requirements should be equivalent.
	Consider minimum device requirements starting with 330-270-0040- (6). The rule (4) does not meet minimum requirements for utility incentives, whereas (6) does. For example, the requirements in this rule (6) meet utility requirements for incentives for ductless heat pumps of minimum of \$500, more often \$800, and additional incentives (upto \$1000) for households under 200% of the federal poverty level or under 80% of the median family income for the area.
	Consider providing a chart/template for 330-270-0050. One example is to prioritize households with systems that do not have air filtration (electric baseboard heat) slightly over households with similar qualifiers that have air filtration systems (electric furnace). And consider additional vetting for households that may prioritizing other needs, such as food, medicine, healthcare and childcare, etc., over utility bill payments, and may be offsetting

	<p>energy costs with wood heat and sourcing the wood for free. Households like these, using alternative means of heating, may be causing a perception that the energy burden is less than the 6% threshold. Calculations of household energy burden should include these alternative heating sources and the associated costs.</p>
<p>Benedikt Springer, CAPO</p>	<p>The legislative intent of SB 1536 is clearly to reduce energy burden among low-income and environmental justice communities, allowing them to heat/cool their homes adequately despite increasing extreme weather events. Additionally, the bill aims to deploy more energy-efficient technologies to reduce greenhouse gas emissions. Unfortunately, current rules will not achieve this as well as could be.</p> <p>Why would legislators choose incentives/subsidies as the appropriate policy tool? The main reason to deploy incentives for the above policy goals is that consumers are often not able to make rational decisions when it comes to energy efficiency. Several market distortions and behavioral patterns are at work here. For instance, many consumers don't know or don't think about energy efficiency upgrades, even if they are cost-effective investments. An incentive might nudge those consumers to change their behavior. Budget and credit constraints are also at work. Many low-income consumers will not be able to afford energy efficiency upgrades, even if they pay for themselves over a 10-year period. Incentives solve that problem.</p> <p>In short, for incentives to work, they need to be targeted at consumers, whose behavior can be changed. Unfortunately, the proposed program does not target incentives in that way. This means, incentives are likely to go to consumers, who were to install a heat pump anyway, negating any causal impacts of the program. This is a general problem in the world of energy-efficiency rebates and incentives. The people most likely to take advantage of such programs are rich environmentalists, who would make these upgrades anyway. One solution is to target incentives in low-income environmental justice communities. These consumers are much more likely to be affected by the discussed market distortions. An incentive can turn a person, who would not have installed a heat pump, because they could literally not afford it, into someone who does, making the program extremely effective. Furthermore, there are good normative reasons for this, some of which are enumerated in SB 1536. Low-income communities are more vulnerable to climate change. They deserve better protection, both because everyone does and for public health reasons. The financing of many energy efficiency programs works as a regressive tax. Low-income folks contribute to for instance a public purpose charge on energy bills. At the same time, they are least likely to be able to take advantage of incentives because often they are not high enough to put upgrades within reach. This program has to be different. To be effective the program needs to actually prioritize environmental justice communities, especially those with low incomes, as indicated in Section 14 (4) (b). The</p>

	<p>current rules fall short of that. Prioritization through waiting lists, expedited processing times, or outreach is unlikely to ensure that priority groups will be the main customers of the program. More stringent requirements are necessary:</p> <p>Replace 330-270-0040 (17) Prioritization means, at a minimum, reserving 70% of funds for the identified priority groups. Among those, special consideration should be given to applicants with low incomes. This requirement can be met by reserving 40% of funds for those with low incomes as defined under (15)(B). From our perspective, a quota of 100% would be desirable. The other way to ensure the program is effective is to give higher incentives to those with lower incomes.</p> <p>Replace 330-270-0040 (8) an eligible entity must offer higher financial assistance to those with lower incomes.</p> <p>There is a wave of energy-efficiency incentives and other programs coming. This includes federal tax credits as well as the HOMES and HEEHRA rebates. The state of Oregon is receiving increasing amounts of funds for the federal low-income weatherization program (WAP) and has allocated more money towards its own program (ECHO). There are also incentives available through various utilities including those administered by the Energy Trust of Oregon. Furthermore, there are many competitive grants available to organizations trying to offer energy efficiency programs. This means a sophisticated customer will easily be able to combine various programs for free energy efficiency upgrades. At the same time, there is not enough done to actually use the incentives to move consumer behavior. The number of programs and rules can easily be overwhelming to consumers. That is especially true for low-income consumers who do not have a financial pillow to absorb risks, like for instance an incentive not coming through, or a follow-up repair. While maybe outside the scope of these rules, we urge ODOE to create a navigator position, that would help people makes sense of the new energy efficiency landscape and ensure that they will not be taken advantage of. At the same time, this proposal is not completely out of the scope of SB1536.</p> <p>Section 14 (7) states “The Department may (c) Provide information to individuals receiving financial assistance from the Heat Pump Deployment Program about other loans, grants, rebates or incentives that may be offered by an electric utility or other programs.” We suggest ODOE use some of the money allocated for the program to create a position aimed at informing and helping consumers with, especially those with low incomes, energy-efficiency measures and incentives. Goals of such a position could include or evolve to cover:</p> <ul style="list-style-type: none"> - Partnering with other organizations that provide energy-efficiency incentives and weatherization services, and providing coordination; - Securing additional funding;
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	<ul style="list-style-type: none"> - Providing consumers with objective (plain language) information about possible energy efficiency upgrades, including decision guides; - Providing consumers with information about how various incentives, rebates, tax credits, and other programs can be combined, including decision guides; - Connecting consumers with reputable contractors and offering remedies when conflicts arise; - Offering more intensive case/construction management to low-income customers; and - Eventually building a home decarbonization clearinghouse as envisioned in Massachusetts that creates one comprehensive access point. ODOE can also ensure that there is more coordination in the energy efficiency space by requiring that eligible entities administer multiple programs. It would be particularly desirable if eligible entities were combining this program with others as to allow their customers to achieve more comprehensive home weatherization. For instance, it would be desirable that any eligible entity evaluates whether a customer’s house is also a good candidate for air sealing or insulation work. Both are highly cost effective weatherization measures for which incentives are available. <p>Add 330-270-0030 (1) (c) Administers at least one additional energy efficiency program. This may include: (A) Connecting customers to other federal, state, or utility-based energy efficiency incentives or rebates; or (B) Offering customers other low- or no-cost weatherization services.</p>
	<p>In our view, a good program that helps low-income customers and changes behavior needs to do more than just offer incentives. A good model might be federal low-income weatherization programs that are administered by community action agencies (CAA). CAAs don’t merely conduct outreach and make funds available. At a minimum, they do a home assessment, provide energy education, organize/supervise construction activities, and conduct quality control activities. Some hire contractors, while others complete all the weatherization work themselves. This means, a low-income household is not on their own, but experts are managing all the necessary activities. This takes a huge burden off their busy lives, at the same time protecting them from various predatory activities that exist in the industry. We think that this would be a good model for an eligible entity to practice. However, it is unclear whether 3330-270-0040 will allow so. (1) states that financial assistance needs to go directly to individuals. However, what if the entity hires the contractor and pays the bill? In this case, the individual only implicitly receives financial assistance, but more directly receives a free or no-cost heat pump.</p> <p>Would this be an allowable use of funds? We think yes, since it might fall under the definition of a rebate, but it would be better to clarify this:</p>

	<p>Add 330-270-0040 (e): Direct payments for the purchase of heat pumps and their installation, as well as related upgrades as defined under (13), benefitting the eligible individual directly.</p> <p>Administrative expenses are insufficiently defined. For example, deciding what type of heat pump is suitable might require a site visit. May those costs be included in the installation cost of a DHP? One might think so. However, what if, for whatever reason, it is determined that no heat pump can be installed at all. Since there is no “program delivery” pot of money, it seems that in this instance the only way to cover this activity would be with administrative funds. This could become a problem for eligible entities or contractors. If an entity was to install heat pumps themselves (as a licensed contractor), the distinction between what the incentive can be applied toward, and what is an administrative cost, would be very ambiguous. To us, this suggests that ODOE should clarify the definition of administrative expenses and expand the list of eligible expenditures:</p> <p>Add 330-270-0040 (f): Direct payments for home assessments and construction management, benefitting the eligible individual directly.</p> <p>Lastly, to ensure community organizations can manage projects on behalf of clients, we propose that such organizations should be able to apply for grants/loans/incentives/rebates on behalf of low-income clients.</p> <p>The limitation of financial incentives to owner-occupants does not flow from the legislation. We do not think ODOE should insert such a requirement. However, we do think that it is paramount that benefits go to the actual occupants of homes.</p> <p><i>Add: 330-270-0040 (2) Individuals who benefit from the financial assistance must be: (a) the owner-occupant of a residential dwelling in Oregon where the heat pump will be installed; or (b) the non-occupant owner of a residential dwelling in Oregon where the heat pump will be installed, who agrees to: (A) Make reductions in rent to reflect in some equitable way the reductions achieved in fuel cost due to upgrades if tenants pay for energy as part of their rent; or (B) Not raise the rent because of the increased value of the dwelling unit due to the upgrades.</i></p> <p>We would like to submit to the record that using economic development districts to implement this program is generally suboptimal because it does not coincide with the boundaries of other energy efficiency delivery mechanisms. It is paramount that Oregon develop a coordinated approach to home energy efficiency and decarbonization. Proliferating various programs administered by different entities with different jurisdictional boundaries undermines efficiency, creates administrative redundancy, and increases the risk of fraud and abuse. The</p>
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	<p>most efficient way of implementing this program will be to work with organizations that are already delivering similar programs and use their boundaries. Examples could include the Energy Trust of Oregon or Community Action Agencies. One state-wide program would be the most efficient solution, as long as program rules allow the consideration of regional characteristics and grants would be given to local community-based organizations. Currently, many community-based organizations that deliver energy efficiency upgrades have service areas that are much smaller than the proposed boundaries. This will make it difficult for them to become an eligible entity. For these reasons, we urge ODOE to be as flexible as possible when implementing 330-270-0030 (2), i.e. when approving alternative boundaries. To allow maximum flexibility we suggest striking (4)(b) since it is an addition that does not follow from the legislation.</p> <p>Strike: 330-270-0030 (4)(b) Additionally, we would like to hear some clarification on the requirement to consult with utilities before proposing an alternative boundary. Does this imply the reason for the alternative boundary need to be related to the utility?</p>
<p>Brooke Brownlee, PGE</p>	<p>We encourage the prioritization of funds to support those populations who would benefit the most from more energy efficient heating and cooling systems, therefore reducing their overall energy bills.</p>
<p>Alessandra de la Torre, Rogue Climate</p>	<p>Language in the rulemaking states that people should not be penalized for fuel switching (gas to electric).</p> <p>Incentivize contractors to collect the HVAC units that are replaced by heat pumps and find some way to recycle the materials or donate.</p> <p>There are barriers for participants to pursue energy upgrades. For instance, community members who are Alameda fire survivors, are often inundated by constant assessments, surveys, and often feel like they are being tossed around between case workers, contractors, organizations, or other folks without actions that will truly serve their needs. This program will work best and be embraced if it has rapid engagement and resource navigation that actively collaborates with other work and incentives going on throughout Oregon. Another barrier for fire survivors has been pure exhaustion – they have little to no capacity, energy, or extra funds to invest in the energy efficiency of a home. How will ODOE provide resources for grant recipients to approach participants in a trauma-informed manner?</p> <p>Some participants we worked with found it difficult to convince contractors to come out to do work if they were low priority upgrades, or if they were low-income and were pursuing the ETO Savings Within Reach programs. How can ODOE ensure that participants who are part of environmental justice communities are prioritized, regardless of income, demographics, and other socioeconomic factors?</p> <p>Community Action Agencies often are the primary source of information around energy-saving programs. During our home energy assessment program</p>

	<p>with ETO, we were informed by one of our participants that a weatherization program hosted by ACCESS, our local CAA, had a 3-year waiting list. This kind of uncertainty around what’s available and lack of capacity to help immediate needs causes distrust. To be better informed of program timelines and turnaround, local organizations need to do extra research which takes a lot more capacity. Resource navigation and awareness of resources is a very complicated area that not many nonprofits or community organizations have the capacity to take on, and thus statewide incentive or energy saving programs are often underutilized because of the lack of capacity to communicate, apply, and utilize the opportunity. How can ODOE support grant recipients to navigate resources, workforce availability, and appropriately communicate project timelines with participants? How are grant recipients practicing informing customers on energy burden, on stacking incentives, and more?</p>
	<p>During our Energize and Home Energy Assessment programs, bilingual resources and information proved to be a very important tool. Even the contractors that we worked with understood the benefit of having bilingual staff who could fill in the language gap, as it increased their potential customer base and ensured that proper service was occurring. How is ODOE setting up grant recipients for success in regards to language access and other forms of accessibility for participants?</p>
<p>Scott Leonard, ETO</p>	<p>Regarding permits required for the application, recommend discussions with Tribes to ensure their permit application processes will meet the program rules.</p> <p>Observe that requiring contractors to provide heat load calculations could be challenging.</p> <p>Is there a way to know which utilities are serving the homes? If so, could this information be shared with Energy Trust for the purpose of monitoring energy savings activity, customer/contractor coordination and coordinating with impact evaluation projects?</p> <p>Is the heat system existing condition known? If so, could this information be shared with Energy Trust for the purpose of understanding the impacts to utility systems and to coordinate with impact evaluation projects.</p> <p>Does a space need to be previously conditioned, like an unconditioned basement, or is that considered similar to a garage?</p> <p>Is this program solely considering heat pumps manufactured after January 1, 2023, per the use of HSPF2 and SEER2?</p> <p>Is there a cap/max amount for grants per project?</p> <p>Combining Energy Trust’s Community Partner Fund efforts or No-Cost DHP and HP efforts with ODOE funds delivered through regional entities could allow for increasing the number of customers served within a given community.</p> <p>Similarly, combining funds on projects could allow regional entities to improve sites more holistically. For example, ODOE supported entities could pay for costs to conduct air sealing and duct sealing, improving electrical panels, or</p>

	<p>addressing other critical home repairs while Energy Trust funds cover a greater portion of the equipment and installation costs.</p>
	<p>It's possible some of the regional entities that could apply to facilitate ODOE's community heat pump program could also be existing Energy Trust community partners or could become community partners with Energy Trust. Leveraging both incentives when projects are eligible could stretch funding to serve more customers than originally intended.</p>
	<p>Establishing a basis for collaboration among common community partners could provide future administrative economies of scale when IRA specific rebate programs are ready to be delivered.</p>
	<p>Current community partners in the region are limited in their capacity to deliver programs with technical expertise. They can be good at communicating with customers and identifying needs, but might need additional education on HVAC and building science principals in order to perform their own audits of sites and make the appropriate recommendations to customers. Collaborating with Energy Trust program staff or utility resources can help provide technical training to community for partners while connecting them to contractors in their area.</p>
	<p>Establishing stronger technical training resources and consistent metrics for conducting quality assurance could also enable community partners/regional entities to better address comfort issues or operation questions that could arise from customers they support.</p>
	<p>Paying incentives based on a % of the total project cost could drive contractors to specify higher cost equipment or possibly increase costs unnecessarily so that customers can get the highest possible incentive.</p> <p>Possible friction with contractors on requiring incentives be deducted from invoices. As mentioned above, if projects overlap with Energy Trust incentives and have the same "instant incentive" requirement, then contractors could be fronting a large portion of the total project cost. In some cases this could challenge business who have limited cash flow or limited access to capital.</p>
	<p>Recommend requiring contractors perform a sizing calculation for the home and documenting the calculated heat load at their specified design temperature.</p> <p>Possibly use one of the regional sizing tools supported by BPA or NEEA https://betterbuiltnw.com/hvac-sizing-tool</p> <p>Reporting heat load calculations on forms will allow the program to perform meaningful & efficient quality assurance if there are comfort or savings issues</p> <p>Recommend requiring an AHRI match for equipment to ensure capacity ratings are identifiable and equipment can be warranted.</p> <p>If the ducted heat pump is replacing an older heat pump the contractor should always replace old coil to ensure proper performance.</p>

	<p>Recommend caution when setting higher HSPF equipment requirements because it could increase the overall project cost disproportionate to energy savings. In current market this could also create longer lead times for project installation due to manufacturing delays on variable speed units.</p> <p>Consider using the NEEP database to find systems with a high COP at minimum capacity @ 47 degrees rather than basing performance on HSPF</p> <p>Recommend requiring duct assessment and sealing on all projects (especially variable speed equipment and those that displace GFAF).</p> <p>Poorly sealed ducts combined with variable speed HP and constant run time could lead to high energy use and poor performance.</p> <p>This is a great opportunity for ODOE and Energy Trust to align on duct sealing services to compliment HVAC installation and encourage robust QA procedures.</p> <p>Auxiliary heat lock out/commissioning could be different depending on system being replaced (gas vs electric) and variable speed vs single or double speed.</p> <p>If allowing DHPs go to into homes with a gas forced air furnace or bulk fuels consider interactive effects and the challenge of disparate thermostats should those systems still operate as back up.</p> <p>Fuel oil furnace homes may require duct addition or modification in order to support proper ducted heat pump performance.</p> <p>Consider the de-commissioning cost or remediation of old oil tanks</p> <p>Recommend a 10% Quality Assurance inspection rate on projects</p> <p>Consider remediation requirements on failures</p> <p>Consider automated reporting tools to demonstrate system was installed according to manufacturer and program specifications.</p> <p>Set a range of consequences for non-compliance depending on severity and frequency</p>
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ODOE Evaluation of Comments

ODOE greatly appreciates the input that stakeholders have provided throughout the development of the rules. All comments received during the public comment period were considered during the process of finalizing the rules. While not all comments were ultimately adopted in the final rules, many will be considered during the next stages of the program's implementation, including the development of program documents, guidance, and communications. Below, ODOE has provided a high-level evaluation of the comments received and how they were considered during the finalization of the rules.

Several comments were received that related to the administration of the program, the program regions, and the eligibility of entities. Section 14 of Chapter 86 of the 2022 Oregon Laws (Senate Bill 1536) established both the criteria for an entity to be eligible for the program and the use of economic development districts as the program regions. When considering comments relating to the alteration of regional boundaries, ODOE decided to retain the language originally proposed in the draft rules with the aim of limiting gaps in program coverage and ensuring the financial feasibility of each grant administrator's program.

Many of the comments focused on the requirements related to the use of program funds. Suggestions to alter the project eligibility requirements were received and considered in the revision of the program rules. As a result of those comments, edits were made to strengthen customer protections. Not all proposed changes were adopted; this was done with the aim of allowing eligible entities, who are still able to propose additional program requirements, flexibility to customize the program to better suit the regional needs and constraints of the market and their community. ODOE considered the input regarding the efficiency requirements and amended the language to permit both HSPF2 and SEER2 ratings and the equivalent HSPF and SEER ratings. Other commenters were interested in having ODOE incentivize or require that HVAC units replaced by heat pumps be recycled or donated. This was not included in the rules because it was not included in legislative language authorizing this program (Sections 14-18 of Chapter 86 of the 2022 Oregon Laws - Senate Bill 1536).

Comments were received regarding the prioritization of financial assistance to certain individuals or communities. Section 14 of Chapter 86 of the 2022 Oregon Laws (Senate Bill 1536) outlines the communities and individuals that regional administrators are required to prioritize when providing financial assistance. ODOE cannot add categories or re-prioritize one category over another in rule. ODOE will require in grant applications a description of how individuals and communities that meet more than one prioritization category will be prioritized.

Commenters highlighted outreach as an important component to ensure that financial assistance is reaching those members of the community most in need. The rules recognize the importance of outreach, and allow each regional grant administrator to use up to 15 percent of the grant funds to administer and market the program. In finalizing the rules, ODOE sought to provide greater clarity over qualifying administrative and marketing costs and will continue to answer questions from applicants to provide further clarification where necessary. ODOE recognizes that there are multiple overlapping or complementary energy efficiency programs

currently active in Oregon and understands the need to coordinate to provide customers optimal outcomes. ODOE is considering how this coordination may be factored into the implementation of the program. As required by statute, ODOE will establish an advisory council that includes representatives from each of the regional grant administrators and tasked with identifying best practices for administering grant funds and providing financial assistance, barriers to the provision of financial assistance, and opportunities for the provision of technical assistance. As part of these discussions, the advisory council may also consider how the different organizations involved in the energy efficiency arena communicate and how they can coordinate their efforts. ODOE staff will also be available to provide information to the public about financial assistance programs available to them and is committed to providing information in an accessible manner.

When finalizing the program rules, ODOE considered comments related to the requirement that financial assistance benefit the owner-occupant of a residential dwelling and ultimately retained the language. Retention of the language results in a clear delineation in the target populations for the Community Heat Pump Deployment Program and the Oregon Rental Home Heat Pump Program, which simplifies program design, reduces confusion between the programs, and aims to maximize funding delivery.