

OFFICE OF THE SECRETARY OF STATE

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 330
DEPARTMENT OF ENERGY

FILED

12/21/2023 2:54 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Oregon Rental Home Heat Pump Program Amendments

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 02/02/2024 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 01/31/2024

TIME: 3:00 PM

OFFICER: Agency Staff

REMOTE MEETING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 1-408-418-9388

CONFERENCE ID: 23496382882

SPECIAL INSTRUCTIONS:

Webinar password: heat (4328 from phones and video systems)

Access code: 234 963 82882

NEED FOR THE RULE(S)

In 2023, HB 3049 amended the language relating to the reserved program budget, changing one of the budget allocations from 'owners of units occupied by households whose income is less than 80 percent of the area median income' to 'owners of units occupied by low or moderate income households'. ODOE needs to amend the program rules to align with this change. Other amendments are needed to improve the clarity of the rules, reduce the administrative burden on contractors and the agency, and provide flexibility to becoming an eligible contractor.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Oregon Laws 2022, Chapter 86, Sections 19 to 25.

https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2022orLaw0086.pdf

House Bill 3409 (2023) Sections 75 and 76.

<https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB3409/Enrolled>

Public meeting, November 16, 2022. Materials available: <https://www.oregon.gov/energy/Get->

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The rule amendment is unlikely to impact racial equity in this state. The changes do not impact who can access the program or the amount of financial assistance available. It does change who a portion of the budget is reserved for but ODOE does not expect this change to impact racial equity in Oregon.

FISCAL AND ECONOMIC IMPACT:

There is not expected to be a fiscal impact from the rule amendment. The budget language changes who is eligible for the budget allocation but does not change the allocation amount. The language change does increase the number of people who the budget allocation is for. Other changes are not expected to have a fiscal impact.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) There may be a minimal reduction in the cost to comply with the rules for contractors eligible to apply to the program and to the Oregon Department of Energy, due to possible reduced administrative costs. It is not expected that other state agencies, units of local government, and members of the public are likely to be economically affected by the rule amendments.

(2)(a) There are around 130 approved contractors in the program at present, this number may change in the future, many of which are small businesses.

(b) There may be a reduced administrative cost due to the amendments to the project eligibility requirements, resulting in less time communicating with the agency and the provision of information.

(c) There is not expected to be a cost of professional services, equipment supplies, labor or increased administration as a result of the rule amendment. The amendments should decrease administration costs.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The Oregon Department of Energy held a public meeting at which around 30 contractors attended and accepted written comments some of which were from contractors.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The agency held a public meeting and accepted written comments to get feedback on proposed rules rather than consulting a rules advisory committee.

HOUSING IMPACT STATEMENT:

As required under ORS 183.530 and 183.534, the Department has considered the potential impact of these rules and believes these rules will cause no impact to the following costs for developing a typical 1,200 square foot detached single-family dwelling on a 6,000 square foot parcel of land:

- (1) materials and labor costs
 - (2) administrative construction or other costs
 - (3) land costs, or
 - (4) other costs
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RULES PROPOSED:

330-280-0020, 330-280-0030, 330-280-0040, 330-280-0070, 330-280-0080, 330-280-0110

AMEND: 330-280-0020

RULE SUMMARY: The rule amendment alters the requirements for a contractor to become eligible to participate in the program, allowing contractors who have abated any violations and paid any fines from the Occupational Safety and Health Division to be eligible if all other eligibility requirements are met.

CHANGES TO RULE:

330-280-0020

Contractor Eligibility

(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 May 1, 2023. 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 shall verify the completeness and accuracy of information submitted by a contractor as part of the contractor registration process.¶

(a) A contractor that installs a heat pump, or a subcontractor that installs a heat pump on behalf of a contractor that offers heat pumps for sale, must hold any license, bond, insurance, or permit required to sell and install the heat pump. The contractor or any subcontractor performing the installation must maintain all applicable licenses, bonds, insurance or permits required throughout the installation period until the installation of the heat pump is complete.¶

(b) The contractor must have an active license with the Construction Contractors Board and no Construction Contractors Board disciplinary actions for the two years prior to the rebate reservation request.¶

(c) If applicable, the contractor must have proof of Workers' Compensation Insurance Coverage and have not been issued a non-complying employer order in the two years prior to the rebate reservation request.¶

(d) The contractor must either have no Occupational Safety and Health Division violations for the two years prior to the rebate reservation request or demonstrate having paid any fines and abated any violations.¶

(e) The contractor must demonstrate a history of compliance with the administrative rules and requirements of the Bureau of Labor and Industries by meeting the following requirements:¶

(A) Have no final order determinations from the Labor Commissioner for the two years prior to the rebate reservation request; and¶

(B) Be absent from the list of contractors maintained by the Bureau of Labor and Industries that are ineligible to receive public works contracts.¶

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

(5) The Department shall verify a contractor's compliance with the Construction Contractors Board, Occupational Safety and Health Division, Bureau of Labor and Industries, and if applicable, Workers' Compensation Division, prior to approving or denying a rebate reservation request. Evidence that a contractor has paid any fines and abated any violations shall not require verification with the Occupational Safety and Health Division. Failure to comply shall result in a denial of the rebate reservation.

Statutory/Other Authority: Oregon Laws 2022, Chapter 86 (Senate Bill 1536), ORS 469.040

Statutes/Other Implemented: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)

AMEND: 330-280-0030

RULE SUMMARY: The rule amendment alters two of the requirements for a project to be eligible, changing the method that a contractor may show that a heat pump is appropriately sized and clarifying that a heat pump's auxiliary heat control is required to be set at or below a specific temperature only when it is applicable.

CHANGES TO RULE:

330-280-0030

Project Eligibility

(1) To be eligible for a rebate for the sale or installation of a heat pump, the project must meet the following requirements:¶

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

(b) A contractor must submit a reservation application before installing a heat pump.¶

(c) The heat pump must be installed at, and serve, one of the following dwellings:¶

(A) A dwelling unit used as a residential tenancy, which does not include vacation occupancy or transient occupancy in a hotel or motel as defined in ORS 90.100; or¶

(B) A manufactured dwelling or recreational vehicle that is located in a rented space in a manufactured dwelling or recreational vehicle park. ¶

(d) The heat pump must be installed and function to provide heating and cooling for the living area of a dwelling; a space used only for storage is not eligible.¶

(e) The heat pump must meet the technical specifications provided in these rules.¶

(f) All necessary permits must have been received from the local jurisdiction and any final inspections conducted by the authority having jurisdiction must be passed.¶

(g) The indoor and outdoor units must be designed to be compatible with one another according to the manufacturer's product specifications and the proposed system must match the efficiency rating test conditions. The heat pump must be Air-Conditioning, Heating, and Refrigeration Institute (AHRI) certified. ¶

(h) The heat pump must be appropriately sized to the space or structure. ~~This shall be assessed~~ A contractor may attest that the heat pump is appropriately sized using Air Conditioning Contractors of America, 8th edition (2016) Manual J and 2nd edition (2014) Manual S residential load calculation methodology. Equivalent energy efficiency industry standards for sizing equipment may be accepted by the Department in the reservation application. The Department reserves the right to audit the heat pump sizing documentation provided in the reservation application to verify that the heat pump is appropriately sized to the space or structure before or after a rebate is reserved for a contractor. ¶

(i) The heat pump system must be installed in accordance with the manufacturer's specifications.¶

(j) ~~If applicable,~~ the heat pump's auxiliary heat control must be set at or below a temperature of 35 degrees Fahrenheit, except in situations when supplemental heating is required during a defrost cycle or system failure.¶

(k) The heat pump system must include at least a five-year warranty against manufacturer defects. ¶

(l) Installations of heat pump systems must include at least a one-year labor warranty covering the system.¶

(m) Under no circumstances will more than one rebate be issued under the program for the purchase and installation of the same heat pump.¶

(n) The heat pump must be new, meaning that it has not previously been used to provide heating or cooling.¶

(2) To be eligible for a grant for upgrades to facilitate the installation of a heat pump, the project must meet the following requirements:¶

(a) A rebate for the sale or installation of a heat pump must have been reserved.¶

(b) Upgrades must be to facilitate the installation of a heat pump. These may include:¶

(A) A new electrical panel or other upgrades to the electrical system of the dwelling the department determines are eligible;¶

(B) Mechanical upgrades to facilitate the installation of a heat pump the department determines are eligible;¶

(C) Other upgrades the department determines are eligible.¶

(c) A grant request must be approved before the work to carry out the upgrades has begun.¶

(d) All necessary permits must have been received from the local jurisdiction and any final inspections conducted by the authority having jurisdiction must be passed.

Statutory/Other Authority: Oregon Laws 2022, Chapter 86 (Senate Bill 1536), ORS 469.040

Statutes/Other Implemented: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)

AMEND: 330-280-0040

RULE SUMMARY: The rule amendment clarifies the program's efficiency requirements for higher efficiency heat pumps.

CHANGES TO RULE:

330-280-0040

Heat Pump Technical Specification

(1) A heat pump eligible to receive a rebate must meet or exceed the following requirements:¶

(a) A split-system heat pump that has a Heating Seasonal Performance Factor of HSPF2 of 7.5 and a Seasonal Energy Efficiency Ratio of SEER2 14.3, or equivalent HSPF and SEER value.¶

(b) A single-package heat pump that has an HSPF2 of 6.7 and a SEER 2 of 13.4, or equivalent HSPF and SEER value.¶

(c) A closed loop water-to-air heat pump that has an EER of 17.1 and a COP of 3.6.¶

(d) An open loop water-to-air heat pump that has an EER of 21.1 and a COP of 4.1.¶

(e) A closed loop water-to-water heat pump that has an EER of 16.1 and a COP of 3.1.¶

(f) An open loop water-to-water heat pump that has an EER of 20.1 and a COP of 3.5.¶

(g) A direct geoexchange heat pump that has an EER of 16.0 and a COP of 3.6.¶

(2) A heat pump eligible to receive additional funds as a higher efficiency heat pump must meet or exceed the following requirements:¶

(a) A ductless split-system heat pump that has a Heating Seasonal Performance Factor of HSPF2 of 8.1 and a Seasonal Energy Efficiency Ratio of SEER2 16, or equivalent HSPF and SEER value.¶

(b) A ductless single-package heat pump that has an HSPF2 of 8 and a SEER 2 of 16, or equivalent HSPF and SEER value.¶

(c) A ducted air source heat pump, either packaged or split system that has an HSPF2 of 8.55 and a SEER2 of 16, or equivalent HSPF and SEER value.¶

(d) A closed loop water-to-air heat pump that has an EER of 18 and a COP of 3.8.¶

(e) An open loop water-to-air heat pump that has an EER of 22 and a COP of 4.3.¶

(f) A closed loop water-to-water heat pump that has an EER of 17 and a COP of 3.3.¶

(g) An open loop water-to-water heat pump that has an EER of 21 and a COP of 3.7.¶

(h) A direct geoexchange heat pump that has an EER of 17 and a COP of 3.8.

Statutory/Other Authority: Oregon Laws 2022, Chapter 86 (Senate Bill 1536), ORS 469.040

Statutes/Other Implemented: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)

AMEND: 330-280-0070

RULE SUMMARY: The amendment does not change low- or moderate-income eligibility requirements, it corrects who would be providing documentation of eligibility for the low-income weatherization assistance program if that option was chosen to demonstrate eligibility.

CHANGES TO RULE:

330-280-0070

Low- or Moderate-Income Eligibility

(1) In order to qualify for a rebate offered under the program for low- or moderate-income tenants, the owner of the dwelling where the installation will be located must provide proof of eligibility. Proof of eligibility shall be provided in at least one of the following ways:¶¶

(a) The owner provides the Department with a U.S. Internal Revenue Service or Oregon Department of Revenue tax transcript for each tax filer residing at the dwelling where the heat pump shall be installed. A tax transcript must be 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. A transcript must also demonstrate the household adjusted gross income is less than or equal to 100 percent of state median income adjusted for the applicable household size.¶¶

(b) The owner provides the Department an eligibility notice for the household residing at the dwelling where the heat pump shall be installed that a member of the household has received in the past seven months for one of the following Oregon Department of Human Services, Oregon Health Authority, or Oregon Housing and Community Services programs:¶¶

(A) Supplemental Nutrition Assistance Program (SNAP).¶¶

(B) Oregon Health Plan (OHP) (Medicaid).¶¶

(C) Children's Health Insurance Program (CHIP).¶¶

(D) Temporary Assistance for Needy Families (TANF)¶¶

(E) Low Income Home Energy Assistance Program (LIHEAP)¶¶

(F) Oregon Energy Assistance Program (OEAP)¶¶

(G) Low Income Weatherization Assistance Program¶¶

(c) The owner provides proof they are currently qualified under one or more of the following programs administered by Oregon Housing and Community Services at the rental housing where the heat pump shall be installed:¶¶

(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; or¶¶

(G) Oregon Rural Rehabilitation Loan Program; or¶¶

~~(H) Low Income Weatherization Assistance Program.~~¶¶

(d) The owner provides the Department proof they are participating in the Housing Choice Voucher Program (Section 8) at the dwelling the heat pump shall be installed.¶¶

(2) The Department will provide low- or moderate-income eligibility certification forms to contractors. For each installation where the customer claims eligibility for the rebate rate for low- or moderate-income tenants, all legal owners of the dwelling or their representative must sign the form certifying that the information is accurate. The contractor must submit a scanned copy of the form and accompanying documentation to the Department as part of the reservation application.

Statutory/Other Authority: Oregon Laws 2022, Chapter 86 (Senate Bill 1536), ORS 469.040

Statutes/Other Implemented: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)

AMEND: 330-280-0080

RULE SUMMARY: The rule amendment adds that contractors would be required to provide a declaration that the heat pump is appropriately sized to the space or structure when submitting their reservation application.

CHANGES TO RULE:

330-280-0080

Reservation Process

- (1) Contractors must submit a reservation application to reserve a rebate for a heat pump using the Department's designated software system. The Department may begin accepting reservation applications on or after May 1, 2023 from contractors who have established eligibility under the program.¶
- (2) A contractor must submit a reservation application before installing a heat pump.¶
- (3) The following information about the purchase and installation of a heat pump must be provided to the Department on the reservation application:¶
 - (a) Name of customer;¶
 - (b) Address of installation;¶
 - (c) Heat pump specifications, as listed in the Department's software system;¶
 - (d) ~~Heat pump sizing calculation information for the space or structure~~Declaration from contractors that the heat pump is appropriately sized to the space or structure and heat pump sizing calculation information;¶
 - (e) Whether the customer claims to be qualified under the low- or moderate-income eligibility requirements;¶
 - (f) Eligible costs for the purchase and installation of the heat pump;¶
 - (g) Whether the project will receive any other incentives;¶
 - (h) Amount of other incentives, if applicable;¶
 - (i) Copy of a signed installation agreement that details the address where the installation will occur, the customer name, the cost, heat pump equipment details, warranty information, and other information as requested by the Department; and,¶
 - (j) Other information as requested by the Department.¶
- (4) The Department will review reservation applications in the order that they are received and will provide written notice to the contractor once a reservation application has been approved or denied. Subject to the availability of funds, program funds will be reserved for a project following departmental approval of a reservation request.¶
- (5) A reservation for a rebate is valid for 180 days unless extended under OAR 330-280-0090. If a rebate is not claimed within 180 days and the reservation is not extended, the reservation will no longer be valid. A contractor may reapply if the reservation expires.¶
- (6) At the time of submission of a rebate reservation application, or through an amendment, a contractor may submit an application for a grant for upgrades that facilitate the installation of the heat pump on behalf of the owner. ¶
- (7) The following information about the upgrades must be provided to the Department on the application for a grant:¶
 - (a) Name of owner;¶
 - (b) Address of upgrades;¶
 - (c) Description of the upgrades;¶
 - (d) Whether the owner claims to be qualified under the low- or moderate-income eligibility requirements;¶
 - (e) Eligible costs associated with the upgrade;¶
 - (f) Whether the project will receive any other incentives;¶
 - (g) Amount of other incentives, if applicable; and,¶
 - (h) Other information as requested by the Department.

Statutory/Other Authority: Oregon Laws 2022, Chapter 86 (Senate Bill 1536), ORS 469.040

Statutes/Other Implemented: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)

AMEND: 330-280-0110

RULE SUMMARY: The amendment changes rule to match the recently altered legislation, by altering one of the budget allocations from 'owners of units occupied by households whose income is less than 80 percent of the area median income' to 'owners of units occupied by low or moderate income households'

CHANGES TO RULE:

330-280-0110

Allocation of funds

(1) Subject to limits on the percentage of funding that may be spent under the program for specific categories of installations, the Department will allocate rebate and grant funding according to the order in which the applications are approved by the Department. The Department will review applications in the order in which they are submitted.¶

(2) In each calendar year:¶

(a) At least 25 percent of the funds must be reserved for rebates and grants for affordable housing providers;¶

(b) At least 25 percent of the funds must be reserved for rebates and grants for owners of dwellings occupied by ~~households whose income is less than 80 percent of the area median income~~low or moderate income households.¶

(3) If total funds spent and allocated for installations for affordable housing providers and owners of dwellings occupied by ~~households whose income is less than 80 percent of the area median income~~low or moderate income households are less than those specified in OAR 330-280-0110(2) for that calendar year, then the unspent and unallocated funds may be made available to all applicants in the following year.

Statutory/Other Authority: Oregon Laws 2022, Chapter 86 (Senate Bill 1536), ORS 469.040

Statutes/Other Implemented: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)