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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 330
DEPARTMENT OF ENERGY

FILED

04/04/2024 8:57 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Energy Efficient Wildfire Rebuilding Incentive Program rule amendment for new residential building code

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 05/24/2024 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.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

Eligibility for the wildfire rebuilding incentive is based on rebuilding to the current building code. As of April 1, 2024, the Oregon Residential Specialty Code in effect will change to the 2023 Oregon Residential Specialty Code. The code needs to be included in the program eligibility to allow owners of buildings being built to that code to participate in the program.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

OAR 918-480-0005; Residential Structures Code Program, Adopted codes and standards
<https://www.oregon.gov/bcd/codes-stand/Pages/residential-structures.aspx>

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

There is expected to be no impact to racial equity in this state from the proposed rule amendment. The Oregon Residential Specialty Code applies to the construction, reconstruction, and repair of one- and two-family dwellings and townhouses. The rule change does not impact who has to comply with the new building code, it just includes the new building code standard in the requirements for eligibility for the program.

ODOE would need to know the demographic information for the people whose homes were damaged or destroyed by wildfire between August 1 and September 30, 2020, who are building to the updated residential building codes, in order to accurately assess who would be impacted by the inclusion of the building code in the eligibility requirements.

FISCAL AND ECONOMIC IMPACT:

No fiscal or economic is expected.

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) The proposed change is limited to adding the current building code into the eligibility requirements. No economic effect is anticipated as a result of the rule update.

(2)(a) Fifty-nine small businesses (real estate investors or agents and construction contractors) have participated in the program during its first 22 months of operation. As the program winds down, we estimate that as many as five additional small businesses may choose to participate. All program participants are subject to the rules.

(b) Compliance with the rule will create no new or additional reporting, recordkeeping and administrative activities and will have no cost.

(c) Compliance with the rule will not trigger the need for any new or additional professional services, equipment supplies, labor or increased administration.

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

Small businesses were not involved in the development of the rule amendment. The proposed change is limited to adding a cross reference to the current building code based on the date of permit application with the local authority having jurisdiction.

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

The proposed change is limited to adding the current building code into the program eligibility. No Administrative Rule Advisory Committee was considered necessary due to the limited scope of the rule amendment.

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.

AMEND: 330-260-0030

RULE SUMMARY: The amendment includes a new residential building code in the eligibility requirements for incentives for residential structures.

CHANGES TO RULE:

330-260-0030

Incentives for Residential Structures

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

(a) The dwelling has been determined by a local government as being adequately served by water, sanitation and roads;¶

(b) The dwelling is located within the same lot or parcel as the original dwelling being altered, restored, or replaced;¶

(c) The alteration, restoration, or replacement is complete;¶

(d) The dwelling meets the Oregon Residential Specialty Code in effect as specified in OAR 330-260-0030(5) and as administered by Oregon's Building Codes Division and local jurisdictions, including all energy efficiency requirements; and¶

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

(2) An owner that is altering or restoring an eligible residential structure, or replacing an eligible residential structure or manufactured dwelling with a residential structure, shall be eligible to receive an incentive of \$3,000 per eligible structure in addition to the amount they may be eligible to receive under OAR 330-260-0030(1) if:¶

(a) The dwelling has been determined by a local government as being adequately served by water, sanitation and roads;¶

(b) The dwelling is located within the same lot or parcel as the original dwelling being altered, restored, or replaced;¶

(c) The alteration, restoration, or replacement is complete;¶

(d) The dwelling meets the 2021 Oregon Residential Reach Code or is participating in a utility new homes energy efficiency program as specified in OAR 330-260-0030(6);¶

(e) Any required utility inspections have been completed following completion of a utility new homes energy efficiency program; and¶

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

(3) An owner that demonstrates in their application they meet low- or moderate-income eligibility requirements specified in OAR 330-260-0060 shall be eligible for an additional incentive of \$4,500 if they qualify for an incentive under OAR 330-260-0030(1) but not (2).¶

(4) An owner that demonstrates in their application they meet low- or moderate-income eligibility requirements specified in OAR 330-260-0060 shall be eligible for an additional incentive of \$9,000, if they qualify for an incentive under OAR 330-260-0030(2).¶

(5)(a) For building permit applications submitted prior to April 1, 2021, the Oregon Residential Specialty Code in effect is the 2017 Oregon Residential Specialty Code.¶

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

(c) For building permit applications submitted beginning October 1, 2021 on or between October 1, 2021, and September 30, 2023, the Oregon Residential Specialty Code in effect is the 2021 Oregon Residential Specialty Code.¶

(d) For building permit applications submitted on or between October 1, 2023, and March 31, 2024, both the 2021 and 2023 Oregon Residential Specialty Code are considered the Oregon Residential Specialty Code in effect.¶

(e) For building permit applications submitted beginning April 1, 2024, the Oregon Residential Specialty Code in effect is the 2024 Oregon Residential Specialty Code.¶

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

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

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

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

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

Statutory/Other Authority: ORS 469.040, Oregon Laws 2021, chapter 669 (House Bill 5006)

Statutes/Other Implemented: Oregon Laws 2021, chapter 669 (House Bill 5006)