



Department of Consumer
and Business Services

Fire Hardening Grant Program

Opportunity for public input:

A public rulemaking hearing is scheduled for Jan. 18, 2022.

This hearing will be hosted virtually through ZoomGov and located at the Building Codes Division in Conference Room A.

Written comments may be submitted to the rules coordinator, at rulescoordinator.bcd@dcbs.oregon.gov, or to the mailing address below. All written comments must be received by 5 p.m. on Jan. 21, 2022.

If you wish to provide oral testimony at the hearing, the best way to connect is to join the meeting from your computer, tablet or mobile device with internet access using a headset or earphones with a microphone. If you are unable to connect through your computer, tablet or mobile device, you can dial in using your phone. Use the following information to connect to the meeting.

By computer, tablet, or mobile device: <https://www.zoomgov.com/j/1603804679>

By phone: United States: +1 551-285-1373
Access code: 160 380 4679

Live broadcast via the internet:

To view the public hearing live, click on "[View live meeting.](#)" or go to the division homepage at Oregon.gov/bcd, and click on "View live meetings."

Purpose of the rule:

These rules will establish the Department of Consumer and Business Services grant program to incentivize fire hardening improvements in residential and commercial buildings being rebuilt after being damaged or destroyed by the 2020 wildfires.

Citation:

Adopts: OAR 918-001-5000, OAR 918-001-5010, OAR 918-001-5020, OAR 918-001-5030,
OAR 918-001-5040, OAR 918-001-5050, OAR 918-001-5060, OAR 918-001-5070

These rules are anticipated to take effect April 1, 2022. After the rulemaking hearing, temporary rules will be filed to establish the program and these temporary rules are anticipated to take effect on Feb. 1, 2022.

History:

House Bill 5006 passed the Oregon legislature during its 2021 legislative session and was signed into law by the Governor. The bill took effect on August 6, 2021. This bill allocated ten million dollars to the Department of Consumer and Business Services to create a fire hardening grant program. This program is targeting homes or businesses that are being rebuilt after being damaged or destroyed in the 2020 wildfires. The program will provide grants to incentivize rebuilding choices that improve the rebuilt structure's resistance to damage from wildfire.

Contact:

If you have questions or need further information, contact Andy Boulton, policy analyst by phone at 971-375-7027 or by email at andrew.boulton@dcbs.oregon.gov.



OFFICE OF THE SECRETARY OF STATE

SHEMIA FAGAN
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION

STEPHANIE CLARK
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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 918
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
BUILDING CODES DIVISION

FILED

12/30/2021 4:40 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Establish program to incentivize fire hardening improvements for certain buildings damaged or destroyed by wildfire

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/21/2022 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.

CONTACT: Laura Burns
971-375-7031
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1535 Edgewater St NW
Salem, OR 97304

Filed By:
Laura Burns
Rules Coordinator

HEARING(S)

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

DATE: 01/18/2022

TIME: 9:30 AM - 10:00 AM

OFFICER: BCD Staff

ADDRESS: Building Codes Division

1535 Edgewater St NW

Salem, OR 97338

SPECIAL INSTRUCTIONS:

This hearing will be held virtually through Zoom.

Connection by computer: <https://www.zoomgov.com/j/1603804679>

Connect by phone: +1 551 285 1373 US or 833 568 8864 US Toll-free

Meeting ID: 160 380 4679

Individuals who wish to submit oral testimony should timely appear at the virtual hearing. The hearing will close no later than 10:30 a.m. but may close as early as 9:40 a.m. if there is no testimony presented, or if all individuals present at the meeting have had the opportunity to enter their comments into the record.

NEED FOR THE RULE(S)

House Bill 5006 passed the Oregon legislature during its 2021 legislative session and was signed into law by the Governor. The bill took effect on August 6, 2021. This bill allocated ten million dollars to the Department of Consumer and Business Services to create a fire hardening grant program. These rules are necessary to implement the grant program funded by House Bill 5006.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

The division relied on the following documents in creating these rules:

1. House Bill 5006
2. Written Statements submitted by the Insurance Institute for Business and Home Safety

3. Written Statements submitted by the McKenzie Valley Long Term Recovery Group
4. Headwaters Economics Paper on wildfire resistant home building costs
5. Land use policy article studying rebuilding patterns after wildfires

These documents as well as draft rules are available from the division's rules coordinator located at 1535 Edgewater Street NW, Salem, OR 97304 and are posted on the division's Web site at: <http://www.oregon.gov/bcd/laws-rules/Pages/proposed-rules.aspx>.

FISCAL AND ECONOMIC IMPACT:

The most significant economic impact of these rules will be to establish a program to distribute \$10 million in grant funding to incentivize fire hardening improvements for buildings that were damaged or destroyed in the 2020 wildfires. These grants will help offset the costs of the improvements and result in buildings and communities that may be more resistant to damage from wildfires in the future.

There will be additional administrative costs for operating the program and these costs will be borne by the division and by local counties that are partnering to administer the program. The division anticipates that the administrative funding provided in HB 5006 will be sufficient to cover the additional county administrative costs.

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. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The eight counties affected by the 2020 wildfires, Clackamas, Douglas, Jackson, Klamath, Lane, Linn, Lincoln, and Marion, are partnering with the division to administer the grant program and will incur additional costs to accommodate the administrative burden of the program. The division was allocated \$678,004 for administrative costs and it is disbursing those funds to the affected counties to defray the additional costs incurred by the counties.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Small businesses will only be subject to these rules to the extent that they apply for assistance. Approximately 250 commercial buildings were damaged or destroyed in the 2020 wildfires and may be eligible for grant assistance to incentivize fire hardening improvements in rebuilding those buildings. There is no identified cost of compliance for small businesses because this is a voluntary program, there is no cost to apply, and an eligible application may result in the receipt of grant money.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The program will be voluntary. There will be no additional required reporting, recordkeeping or other administrative activities created for small businesses by these rules. If a small business is participating in the program then it will need to work with the program to provide the necessary documentation and application information to qualify for the program.

c. Equipment, supplies, labor and increased administration required for compliance:

The program will be voluntary. There will be no additional required equipment, supplies, labor or administration activities or costs created for small businesses by these rules. If a small business is participating in the program then it will need to work with the program to provide the necessary documentation and application information to qualify for the program.

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

Small businesses were involved as members of the rulemaking advisory committee that met on December 7, 2021 and provided advice about the content of the rules. Additionally, several regional and statewide outreach meetings were held with members of the public including small businesses where feedback was solicited.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

HOUSING IMPACT STATEMENT:

There is no known housing impact.

RULES PROPOSED:

918-001-5000, 918-001-5010, 918-001-5020, 918-001-5030, 918-001-5040, 918-001-5050, 918-001-5060, 918-001-5070

ADOPT: 918-001-5000

RULE SUMMARY: Describes the purpose and objectives of the rules, which includes creating a grant program to incentivize fire hardening measures in buildings being rebuilt after the 2020 wildfires.

CHANGES TO RULE:

918-001-5000

Purpose and Objectives

(1) OAR 918-001-5000 to OAR 918-001-5070, are established to administer Oregon Laws 2021, chapter 669, Section 263 (House Bill 5006) which authorize the division to establish a grant program.

(2) The grant program will incentivize fire hardening improvements for residential and commercial buildings that are repaired or rebuilt after being damaged or destroyed in a qualifying wildfire.

(3) These rules describe the fire hardening grant program and the application process, verifying eligibility for grant payment, and distributing grants to qualified applicants.

Statutory/Other Authority: Oregon Laws 2021, Chapter 669, Section 263 (House Bill 5006)

Statutes/Other Implemented: Oregon Laws 2021, Chapter 669, Section 263 (House Bill 5006)

ADOPT: 918-001-5010

RULE SUMMARY: Defines important terms that are used in the rules establishing the grant program.

CHANGES TO RULE:

918-001-5010

Definitions

The following definitions apply to OAR 918-001-5000 to OAR 918-001-5070, unless the context requires otherwise:

- (1) "Accessory structure" means a structure which is accessory to and incidental to that of the residential or commercial building, and that is located on the same lot.
- (2) "Affected county" means one of the counties listed in 918-001-5020.
- (3) "Applicant" means a person applying to the fire hardening grant program for grant funds.
- (4) "Commercial building" means a building that is used in connection with a business that is governed by the Oregon Structural Specialty Code.
- (5) "Ignition-resistant material" means a type of building material that resists ignition or sustained flaming combustion sufficiently so as to reduce losses from wildland urban interface conflagrations under worst-case weather and fuel conditions with wildfire exposure of burning embers and small flames.
- (6) "Manufactured home" means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.
- (7) "Noncombustible material" means any material that in the form in which it is used and under the conditions anticipated will not ignite, burn, support combustion or release flammable vapors when subjected to fire or heat in accordance with ASTM E136.
- (8) "Program" means the Fire Hardening Grant Program.
- (9) "Qualifying wildfire" means a wildfire that occurred in 2020 that damaged property in at least one of the affected counties.
- (10) "Residential building" means either a building governed by the Oregon Residential Specialty Code, or a manufactured home.

Statutory/Other Authority: Oregon Laws 2021, Chapter 669, Section 263 (House Bill 5006)

Statutes/Other Implemented: Oregon Laws 2021, Chapter 669, Section 263 (House Bill 5006)

ADOPT: 918-001-5020

RULE SUMMARY: Lists the counties partnering with the division to administer the program and the responsibilities of those counties.

CHANGES TO RULE:

918-001-5020

County Administration

(1) The division shall partner with the following counties to administer the fire hardening grant program:

(a) Clackamas County;

(b) Douglas County;

(c) Jackson County;

(d) Klamath County;

(e) Lane County;

(f) Lincoln County;

(g) Linn County; and

(h) Marion County.

(2) Affected counties partnering with the division in administering the program will be required to:

(a) Perform certain functions listed here and detailed in an intergovernmental agreement entered into by the affected county and the division.

(b) Make information about the program, including application materials, available to county residents who are interested in participating in the program.

(c) Accept applications from applicants who wish to participate in the program.

(d) Assist applicants in completing program application documents.

(e) Verify that submitted applications have been fully completed and that all necessary program certifications and supporting documents are included. The following would need to be included in a completed application:

(A) Completed Program Application Form;

(B) Program Eligibility Certification;

(C) Documentation of applicant identity as stated in 918-001-5050(1); and

(D) Documentation of property or building ownership as stated in 918-001-5050(2).

(f) Verify that at least one qualifying fire hardening improvement has been completed on the applicant's residential or commercial building.

(g) Determine the grant amount to be paid to the applicant pursuant to OAR 918-001-5060.

(h) Distribute grant funds to applicants that meet all of the eligibility criteria listed in 918-001-5030.

(i) Account for all disbursed funds using generally accepted accounting principles.

(j) Issue Internal Revenue Service Form 1099-G when required based on the circumstances of the applicant.

Statutory/Other Authority: Oregon Laws 2021, Chapter 669, Section 263 (House Bill 5006)

Statutes/Other Implemented: Oregon Laws 2021, Chapter 669, Section 263 (House Bill 5006)

ADOPT: 918-001-5030

RULE SUMMARY: States the requirements to apply for the program and to be eligible for assistance.

CHANGES TO RULE:

918-001-5030

Program Application and Eligibility

To be eligible for incentives an applicant to the program must meet the following requirements:

(1) The applicant must own a residential or commercial building that was damaged or destroyed by a qualifying wildfire, or the applicant must own a parcel of land where a residential or commercial building was damaged or destroyed in a qualifying wildfire.

(2) The applicant must have completed work on at least one qualifying fire hardening improvement on a residential or commercial building that was damaged or destroyed by a qualifying wildfire.

(3) The applicant must include at least one of the fire hardening improvements listed in 918-001-5060 when rebuilding their residential or commercial building.

(4) The applicant confirms with documentation that the work on the qualifying fire hardening improvement(s) from section (3) has been completed.

(5) The program will accept applications until either all funds have been disbursed or until June 1, 2023, whichever comes first.

Statutory/Other Authority: Oregon Laws 2021, Chapter 669, Section 263 (House Bill 5006)

Statutes/Other Implemented: Oregon Laws 2021, Chapter 669, Section 263 (House Bill 5006)

ADOPT: 918-001-5040

RULE SUMMARY: States the eligibility requirements to receive a grant for improvements to accessory structures.

CHANGES TO RULE:

918-001-5040

Accessory Structures

The primary intent of the program is to incentivize fire hardening improvements in residential and commercial buildings, but accessory structures that are within 50 feet of a residential or commercial building can act as fuel for a wildfire thereby increasing the risk of damage to the nearby residential and commercial building. Therefore, fire hardening grants will be available to applicants for improvements made to accessory structures under the following conditions:

(1) The applicant is eligible for grant assistance for a residential or commercial building on the same parcel.

(2) The applicant has added both of the following fire hardening improvements to one or more accessory structure(s):

(a) Roofing that is rated either Class B or Class A;

(b) Exterior wall covering that is either:

(A) Noncombustible;

(B) Ignition resistant;

(C) Heavy timber; or

(D) log wall; and

(3) The accessory structure that is being improved is within 50 feet of any residential or commercial building. For this condition, the residential or commercial building that is within 50 feet of the accessory structure is not required to be the same residential or commercial building that the applicant has already qualified for grant assistance.

Statutory/Other Authority: Oregon Laws 2021, Chapter 669, Section 263 (House Bill 5006)

Statutes/Other Implemented: Oregon Laws 2021, Chapter 669, Section 263 (House Bill 5006)

ADOPT: 918-001-5050

RULE SUMMARY: States how the program eligibility criteria will be verified.

CHANGES TO RULE:

918-001-5050

Verification of Program Eligibility

The affected county that the applicant is rebuilding in will verify program eligibility. Each of the following eligibility elements will be verified with the listed documentation.

(1) Applicant identity will be verified with a government issued photo identification such as a driver's license, state issued photo identification, passport, or military identification.

(2) Property ownership will be verified with a copy of the title, manufactured home ownership documentation, a search of public property ownership records, or other documentation at the discretion of the County Building Official.

(3) Completion of eligible work will be verified with:

(a) The results of an inspection by a local building department;

(b) Photographic or video evidence suitable to verify the work;

(c) An invoice for service and materials confirmed as paid; or

(d) Other documentation at the discretion of the County Building Official.

Statutory/Other Authority: Oregon Laws 2021, Chapter 669, Section 263 (House Bill 5006)

Statutes/Other Implemented: Oregon Laws 2021, Chapter 669, Section 263 (House Bill 5006)

ADOPT: 918-001-5060

RULE SUMMARY: Lists the different fire hardening improvements that will be incentivized by the program and the grant amounts that will be associated with each improvement.

CHANGES TO RULE:

918-001-5060

Qualifying Improvements and Program Incentives

The following improvements will be incentivized by the program and the listed incentive amounts will be disbursed to eligible applicants once they complete qualifying fire hardening improvements:

- (1) Installing roofing rated either Class B or Class A is eligible for a \$2,200.00 incentive.
- (2) Installing a fire hardened exterior wall covering is eligible for a \$1,750.00 incentive, the wall covering must be either:
 - (a) Noncombustible;
 - (b) Ignition resistant;
 - (c) Heavy timber; or
 - (d) Log wall.
- (3) Installing vents that were designed to resist ember intrusion and flame, or using an unvented attic assembly is eligible for a \$350.00 incentive.
- (4) Protecting the undersides of eaves, soffits and other building projections at the discretion of the County Building Official is eligible for a \$400.00 incentive, applicant must use one of the following:
 - (a) Noncombustible material;
 - (b) Ignition-resistant material;
 - (c) Exterior portion of one hour assembly; or
 - (d) One layer of 5/8 inch Type X gypsum sheathing or equivalent.
- (5) Installing fire hardened walking surfaces of porches, balconies, and decks is eligible for a \$550.00 incentive, walking surfaces must be constructed from:
 - (a) Noncombustible material;
 - (b) Ignition resistant material;
 - (c) Exterior fire retardant treated wood; or
 - (d) Materials meeting ASTM E2632.
- (6) Installing windows and skylights that are either made from tempered glass or are 20-minute fire rated is eligible for a \$550.00 incentive.
- (7) For manufactured homes only, installing skirting that is made from either noncombustible or ignition resistant materials is eligible for a \$500.00
- (8) Accessory structures that meet the eligibility conditions in 918-001-5040 are eligible for a grant of \$500.00 per structure for up to two structures.
- (9) Eligibility for grant funds is not a guarantee of payment. The program may be unable to make additional payments if there are insufficient funds available.

Statutory/Other Authority: Oregon Laws 2021, Chapter 669, Section 263 (House Bill 5006)

Statutes/Other Implemented: Oregon Laws 2021, Chapter 669, Section 263 (House Bill 5006)

ADOPT: 918-001-5070

RULE SUMMARY: States that, in addition to partnering with the affected counties, the division may partner with additional organizations to provide specific types of assistance to the program.

CHANGES TO RULE:

918-001-5070

Additional Organizational Partners

The division may partner with additional governmental or non-governmental organizations to provide additional assistance to potential applicants. This assistance may include:

(1) Outreach and education;

(2) Application preparation and program intake; and

(3) Preparation of verification documents.

Statutory/Other Authority: Oregon Laws 2021, Chapter 669, Section 263 (House Bill 5006)

Statutes/Other Implemented: Oregon Laws 2021, Chapter 669, Section 263 (House Bill 5006)