

OREGON BUILDING PERFORMANCE STANDARD EARLY COMPLIANCE INCENTIVE PROGRAM DRAFT RULES

330-300-0100

Purpose

The purpose of the rules in 330-300-0100 through 330-300-0170 is to implement the early compliance incentive program for the Building Energy Performance Standards adopted under House Bill 3409 (2023), section 14 (2), codified as Oregon Revised Statutes section 469.285, and section 17, codified as Oregon Revised Statutes section 469.291. The rules provide procedures for: covered commercial building eligibility, incentive amounts, application process, department review of an application, incentive payment process and incentive program compliance.

330-300-0110

Definitions

- (1) “Covered commercial building” means a Tier 1 building as defined in Oregon Revised Statutes section 469.275 (13) or a Tier 2 building as defined in Oregon Revised Statutes section 469.275 (14).
- (2) “Department” means the Oregon Department of Energy.
- (3) “Director” means the director of the Oregon Department of Energy.
- (4) “Electric utility territory covered by the Energy Trust of Oregon” means the service territories of Portland General Electric and Pacific Power.
- (5) “EUI” means Energy Use Intensity as defined in Oregon Revised Statutes section 469.275 (6).
- (6) “EUIT” means Energy Use Intensity target as defined in Oregon Revised Statutes section 469.275 (7).
- (7) “Gross Floor Area (GFA)” as defined in Oregon Revised Statutes section 469.275 (9).
- (8) “Multifamily Residential Building” means a covered multifamily building on contiguous property, containing sleeping units or more than five (5) dwelling units where occupancy is primarily permanent in nature.
- (9) “Rural area” means any geographic areas in Oregon ten or more miles from the centroid of a population center of 40,000 people or more, as defined by The Oregon Office of Rural Health.

330-300-0120

Covered Commercial Building Eligibility

- (1) Incentives will be awarded on a competitive basis. To be eligible for an incentive, a covered commercial building must meet the following requirements:

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- a. Be a Tier 1 or Tier 2 covered commercial building in Oregon.
 - b. If the covered commercial building is a Tier 1 building, the building must have a baseline EUI that exceeds an applicable EUI by at least 15 EUI units.
 - c. The covered building must meet the requirements established under OAR 330-300-0010, which refers to the ASHRAE 100 2024 national standards for energy efficiency in existing buildings with additional Oregon amendments as published by the Oregon Department of Energy for application in the state of Oregon.
- (2) Applications will be reviewed for completeness and eligibility in the order received.
- (3) To receive the applicable incentive payment, a building owner must demonstrate completion of the early compliance action at least one year before the building's compliance date:
- a. Tier 1 building early compliance dates:
 - i. Before June 1, 2027, for buildings equal to or greater than 200,000 square feet.
 - ii. Before June 1, 2028, for buildings equal to or greater than 90,000 square feet but less than 200,000 square feet.
 - iii. Before June 1, 2029, for buildings equal to or greater than 35,000 square feet but less than 90,000 square feet.
 - b. Tier 2 building early compliance dates:
 - i. Before July 1, 2027, for all Tier 2 buildings.
- (4) Applications will be selected based on a competitive review process described in section 330-300-0150.

330-300-0130

Incentive Amounts

- (1) An eligible building may apply for an incentive of up to \$0.85 per square foot of eligible floor area per building for the following compliance actions:
- a. An eligible building may apply for an incentive of \$0.35 per square foot of eligible floor area per building for completing Energy Benchmarking and Reporting;
 - b. An eligible building may apply for an incentive of \$0.05 per square foot of eligible floor area per building for completing an Energy Management Plan (EMP) and Operations & Maintenance Program (O&M);
 - c. An eligible building may apply for an incentive of \$0.35 per square foot of eligible floor area per building for completing an Energy Audit;
 - d. An eligible building may apply for an incentive of \$0.10 per square foot of eligible floor area per building for achieving compliance.
- (2) The total incentive amount may not exceed the following:
- a. \$50,000 for Tier 1 buildings equal to or greater than 200,000 square feet;

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- b. \$35,000 for Tier 1 buildings equal to or greater than 35,000 square feet but less than 200,000 square feet;
- c. \$10,000 for all Tier 2 buildings.

330-300-0140

Application Process

- (1) A building owner must submit an incentive application using the Department's designated software system.
- (2) Prior to the date that the Department will begin accepting applications, the Department will post an announcement on the Building Performance Standards webpage and send an email announcement to each building owner who has established eligibility under the program. The announcement will provide the opening date for the application process, application forms, and evaluation criteria.
- (3) The following information about the eligible building must be provided to the Department on the incentive application:
 - a. Building ID number (UBID);
 - b. Building owner name;
 - c. Building address;
 - d. GFA of the building in square feet, excluding any parking garage area.
 - e. If the building is a Tier 1 building, the building's EUI and EUI_t, including 12 months of energy usage from utility;
 - f. Electric utility territory;
 - g. Evidence of multifamily affordable housing, if applicable;
 - h. For which compliance action building owner is applying;
 - i. Incentive calculation and final incentive requested;
 - j. Other information as requested by the Department.
- (4) The Department will provide written notice to the building owner once an incentive application has been received.

330-300-0150

Application Review

- (1) The department shall conduct a competitive review of all submitted applications.
- (2) To maximize the program's benefits to building owners across the state, applications will be selected based on a scoring system and priority will be given to buildings with the highest

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energy intensity, buildings not covered by an Energy Trust of Oregon electric utility, smaller buildings, buildings located in a rural area, multifamily buildings, and other criteria determined by the department. The Department may also give priority to Tribal applications. The applications with the highest scores will be selected first, until funding has been exhausted.

- (3) The evaluation criteria will be announced prior to the date in which the department begins accepting applications.
- (4) The Department will provide written notice to the building owner once an incentive application has been approved or denied.
- (5) The building owner has 30 days to accept the terms of the incentive. If the building owner does not accept the terms within 30 days, the incentive will no longer be valid, and the application with the next highest score will be selected.
- (6) The building owner may appeal the Department's decision to disqualify the building owner or the department's determination of the amount of an incentive payment.

330-300-0160

Incentive Payment Process

- (1) To receive an incentive payment, a building owner that has been selected for an incentive must provide evidence that the applicable compliance action has been completed. The building owner must provide the following information to the Department:
 - a. Building ID number (UBID);
 - b. Building owner name;
 - c. Building address;
 - d. Total incentive amount requested;
 - e. If the compliance action is Energy Benchmarking and Reporting, the building owner must submit the application for Oregon compliance or the grouped buildings application for compliance, the form for building activity and EUI, and the form for calculation of EUI.
 - f. If the compliance action is an Energy Management Plan (EMP) and Operations & Maintenance Program (O&M), the building owner must submit EMP and O&M checklists using the format provided on the Department's Building Performance Standards webpage and make EMP and O&M documentation available for ODOE to review upon request.
 - g. If the compliance action is an Energy Audit, the building owner must submit evidence of Energy Audit using the required form as provided on the Department's Building Performance Standards webpage.

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- h. If the compliance action is achieving compliance, the building owner must submit updated forms demonstrating that either $EUI \leq EUI_t$ or that all cost-effective energy efficiency measures have been installed.
 - i. Other information as requested by the Department.
- (2) A building owner may request incentive payments for each compliance action separately.

330-300-0170

Incentive Program Compliance

- (1) Pursuant to the procedures for a contested case under ORS chapter 183, the Director may order the revocation of an incentive or portion of an incentive under the program if the Director finds that the incentive 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 incentive, or portion of the incentive that is subject to the order of revocation. All moneys provided to a building owner attributable to the fraudulently or mistakenly obtained incentive, or portion of the incentive shall be forfeited.