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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 330
DEPARTMENT OF ENERGY

FILED

11/13/2024 11:48 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Oregon Rental Home Heat Pump Program Amendments

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/21/2024 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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Filed By:
Kaitlin Lynch
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HEARING(S)

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

DATE: 12/16/2024

TIME: 10:00 AM

OFFICER: Kaitlin Lynch

REMOTE HEARING DETAILS

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

PHONE NUMBER: 1-650-479-3208

CONFERENCE ID: 26629592858

SPECIAL INSTRUCTIONS:

Event Password: energy (363749 from phones)

NEED FOR THE RULE(S)

The Oregon Department of Energy is proposing rule amendments that reflect changes made to the Oregon Rental Home Heat Pump Program during the 2024 legislative session. In February 2024, Senate Bill 1525 outlined the transfer of unallocated grant moneys from CHPDP to ORHHPP to allow for the use of the moneys in rental properties occupied by members of Tribes and regions to whom the moneys were originally allocated. Grant funds not awarded as a grant by July 1, 2024, were transferred. As of July 1, 2024, all regions had been awarded a grant, so moneys were only transferred for Tribes. In August 2024, the Oregon Department of Energy filed a temporary rulemaking regarding the transfer of funds for Tribes without an identified administrator. The temporary rule expires February 14, 2025, and this rulemaking would make the temporary rules (330-280-0070 and 330-280-0140) permanent.

The Oregon Department of Energy is also proposing a rule amendment meant to alleviate a financial burden on small businesses in Oregon. Under current rule 330-280-0080, a contractor must apply for a rebate before the installation of a heat pump, install the heat pump, pass final inspection, and submit a claim for the rebate within the reservation period (the initial reservation period is 180 days; contractors may request an extension of an additional 180 days). If a contractor installs the heat pump and passes final inspection within the reservation period but does not claim the rebate

within the reservation period, the reservation expires. Since the program's statutory language requires a contractor to submit a reservation prior to installation of a heat pump, the contractor is also unable to reapply for a rebate. This leaves either the contractor or the property owner to pay the amount of the rebate that had been approved, which is often a minimum of \$2,000. The Department proposes an amendment that allows a contractor who has installed a heat pump and passed final inspections within the reservation period but did not claim the rebate within the reservation period, to request reinstatement of the previously reserved funds within a set amount of time.

Authority to adopt the rules to implement the program comes from Oregon Laws 2022, Chapter 86.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Oregon Laws 2022, Chapter 86, Sections 19 to 23

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

Oregon Laws 2024, Chapter 51, Section 12

https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2024orLaw0051.pdf

Oregon Revised Statutes, Chapter 469

https://www.oregonlegislature.gov/bills_laws/ors/ors469.html

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

The rule amendments are unlikely to impact racial equity in this state. While certain changes allow for greater access to the program and reserves funding for specific federally recognized Indian Tribal members, Indigenous peoples and Tribes are political entities, not a racial designation. Therefore, ODOE does not expect this change to impact racial equity in Oregon.

FISCAL AND ECONOMIC IMPACT:

There is an expected positive impact to property owners (including federally recognized Indian Tribes or Tribally Designated Housing Entities), who rent to federally recognized Indian Tribal members in Oregon, as property owners may continue to access funds allocated specifically to federally recognized Indian Tribal members to offset the cost of installing a heat pump in a residential tenancy where a Tribal member resides.

There is also an expected positive impact to contractors/small business owners. Contractors will now be able to request reinstatement of a reservation and receive a rebate for work that was completed within program guidelines. Reservations that were previously denied by the program, due to project completion paperwork being filed after the reservation period ended, will be able to request reinstatement of the rebate. This will result in a positive impact for contractors who installed heat pumps during the required timeframe but did not receive a rebate due to late submission of project completion paperwork.

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 slight increase in administrative activities by the Oregon Department of Energy, regarding ensuring that program funds allocated to federally recognized Indian Tribal members are reserved for those specific Tribal members and that rebate reinstatement requests are approved only for eligible rebates. There may be an increase in administrative activities by federally recognized Indian Tribes and Tribally Designated Housing Entities, if they own the rental housing where heat pumps will be installed and work with contractors to have heat pumps installed through the program. There may be a minimal reduction in the cost to comply with the rules for contractors eligible to apply for

reinstatement of rebates. 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 approximately 150 approved contractors in the program, at present, many of which are small businesses. This number has grown over the life of the program, and is expected to continue to grow, as more contractors become aware of the program.

(b) Oregon Department of Energy does not expect a significant increase in recordkeeping or administrative activities by small businesses, as administrative rules already require small businesses to keep track of the heat pump rebate reservation period in order to ensure that the heat pump is installed and passes inspection within the required timeframe. There may be a slight increase in recordkeeping activities, as small businesses will now be able to request reinstatement of expired rebates within an additional amount of time and will need to keep track of that timeframe.

(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.

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

The businesses that the agency interacts with during the administration of this program are majority small business HVAC contractors. The agency took feedback received from these small businesses throughout the administration of this program.

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

The agency engaged federally recognized Indian Tribes and held a public comment period prior to the filing of temporary rules. The agency accepted verbal and written comments from Tribal representatives and the public to gain feedback on proposed rules. The agency also has accepted feedback from small businesses throughout the administration of the program and used that feedback to guide development of the rules.

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.

RULES PROPOSED:

330-280-0070, 330-280-0080, 330-280-0140

AMEND: 330-280-0070

RULE SUMMARY: The rule makes permanent a temporary rule that expands the eligibility criteria for incentives for low- and moderate-income tenants. The added language expands the methods that owners of rental housing where a member of a federally recognized Indian Tribe resides can qualify for higher rebates and grants.

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 or for one of the following programs administered by a federally recognized Indian Tribe or Tribally Designated Housing Entity:¶¶

(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.¶¶

(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.¶¶

(e) The owner provides the Department proof that either:¶¶

(A) They provide activities and services funded by the United States Department of Housing and Urban Development Indian Housing Block Grant at the rental housing where the heat pump shall be installed; or¶¶

(B) The rental housing where the heat pump shall be installed was constructed using funds from the United States Department of Housing and Urban Development Indian Housing Block Grant.¶¶

(f) The owner provides the Department a certification, issued in the past 12 months, that a Tribal member residing at the dwelling where the heat pump shall be installed is qualified as low- or moderate-income, as attested to by a federally recognized Indian Tribe or Tribally Designated Housing Entity.¶¶

(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 adds a provision to allow a contractor to request reinstatement of a rebate reservation, if a heat pump was installed and passed final inspection prior to the reservation expiring, but the rebate was not claimed prior to the expiration date. The rule also allows for this provision to apply to rebate reservations that were denied for this reason, from the start of the program to the date the rules are in effect.

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) 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) If a reservation application was approved and a heat pump installed and passed final inspection within the 180-day reservation period or, if extended, the 360-day reservation period, but the rebate was not claimed within that period, a contractor may request reinstatement of the previously reserved rebate. The Department may approve the request if the previously reserved funds are still available. The contractor must submit the reservation reinstatement request within the following timeframes:¶
 - (a) If the heat pump was installed between July 1, 2023, and February 14, 2025, the request must be received prior to May 1, 2025.¶
 - (b) If the heat pump was installed after February 14, 2025, the request must be received within 90 days of the reservation being denied.¶
- (7) 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)

ADOPT: 330-280-0140

RULE SUMMARY: The rule makes permanent a temporary rule outlining the transfer of funding from the Community Heat Pump Deployment Program to the Oregon Rental Home Heat Pump Program.

CHANGES TO RULE:

330-280-0140

Funding Transferred from the Community Heat Pump Deployment Program

(1) Funds transferred from the Community Heat Pump Deployment Program to the Oregon Rental Home Heat Pump Program under Senate Bill 1525 shall be used in the provision of grants and rebates under the Oregon Administrative Rules Chapter 330 Division 280 and associated administrative costs and expenses. A rebate for the purchase and installation of a heat pump and grant for upgrades to facilitate the installation of the heat pump, financed by these transferred funds, shall be provided to an eligible dwelling that is occupied by a member of a federally recognized Indian Tribe in Oregon for which no eligible entity has been awarded a grant under ORS 469B.460.

(2) Each Tribe must have the same amount of funding allocated for that Tribe under the Oregon Rental Home Heat Pump Program as was allocated for that Tribe under the Community Heat Pump Deployment Program.

(3) In order to qualify for a rebate funded by moneys allocated for eligible dwellings occupied by a member of a specific federally recognized Indian Tribe in Oregon, the owner of the dwelling where the installation will be located must provide proof of the tenant's Tribal membership to the Department. Proof of Tribal membership shall be provided in at least one of the following ways:

(a) A Tribal Enrollment Card;

(b) A letter from a Tribal enrollment officer;

(c) A Bureau of Indian Affairs (BIA) Certificate of Degree of Indian or Alaska Native Blood (CDIB); or

(d) Verified documentation of eligibility for the Indian Health Service as an American Indian or Alaska Native.

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

Statutes/Other Implemented: Oregon Laws 2024, Chapter 51 (Senate Bill 1525), Oregon Laws 2022, Chapter 86 (Senate Bill 1536)