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DEPARTMENT OF ENERGY

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FILING CAPTION: Grant program for eligible entities to provide financial assistance for heat pumps and related upgrades.

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RULES:

330-270-0000, 330-270-0010, 330-270-0020, 330-270-0030, 330-270-0040, 330-270-0050, 330-270-0060, 330-270-0070

ADOPT: 330-270-0000

RULE TITLE: Purpose

NOTICE FILED DATE: 11/29/2022

RULE SUMMARY: This rule is a statement of the purpose for the new Division 270 rules, which implement sections 14-18 of Chapter 86 of the 2022 Oregon Laws to establish a community heat pump deployment program.

RULE TEXT:

The purpose of these rules is to implement a grant program established by Oregon Laws 2022, Chapter 86, Sections 14-18 to award grants to eligible entities to provide financial assistance for the purchase and installation of heat pumps and related upgrades to individuals. The rules provide procedures for: administration of the program, application to the program, use of program funds, awarding funds, funding agreements, record keeping and reporting, and program compliance.

STATUTORY/OTHER AUTHORITY: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)

ADOPT: 330-270-0010

RULE TITLE: Definitions

NOTICE FILED DATE: 11/29/2022

RULE SUMMARY: This rule provides definitions of terms used in the rules in the new Division 270.

RULE TEXT:

- (1) "Department" means the Oregon Department of Energy.
- (2) "Electric utility" has the meaning given that term in ORS 757.600.
- (3) "Eligible entity" has the definition given in Section 14(1) of Chapter 86, Oregon Laws 2022, and means a:
 - (a) Local government as defined in ORS 174.116;
 - (b) Local housing authority;
 - (c) Nonprofit organization;
 - (d) Federally recognized Indian tribe in Oregon;
 - (e) Coordinated care organization as defined in ORS 414.025;
 - (f) Community action agency as described in ORS 458.505;
 - (g) Manufactured dwelling park nonprofit cooperative as defined in ORS 62.803; or
 - (h) An electric utility.
- (4) "Energy burden" has the definition given in Section 14(1) of Chapter 86, Oregon Laws 2022, and means the percentage of gross household income spent on energy costs.
- (5) "Environmental justice communities" has the meaning given that term in ORS 469A.400.
- (6) "Heat pump" means an air-source or ground-source heat pump with an energy efficiency rating established under OAR 330-270-0040(6) or a higher efficiency rating.
- (7) "Region" has the definition given in Section 14(1) of Chapter 86, Oregon Laws 2022, and means an economic development district in Oregon, designated by the Economic Development Administration of the United States Department of Commerce, for which a regional solutions center has been established under ORS 284.754.

STATUTORY/OTHER AUTHORITY: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)

ADOPT: 330-270-0020

RULE TITLE: Administration

NOTICE FILED DATE: 11/29/2022

RULE SUMMARY: This rule outlines the general administration of the new community heat pump deployment program.

RULE TEXT:

- (1) The Department may contract with one eligible entity for each region and one eligible entity for each federally recognized Indian tribe in Oregon.
- (2) The contracts shall be to provide financial assistance for the purchase and installation of heat pumps and related upgrades to individuals who reside within that region or who are members of that tribe.
- (3) An eligible entity may partner with other eligible entities, but the entity awarded a grant shall take a lead role in administering the grant funds and providing financial assistance.
- (4) A partner entity may assist the entity awarded a grant by providing, or assisting in the provision of, financial assistance.
- (5) The department shall allocate grant funds to grantees based upon the following criteria:
 - (a) Up to one and a half percent of the available grant funding shall be allocated to each eligible entity selected. If an eligible entity does not wish to receive the full one and a half percent they may choose a lower percentage and the remaining funds may be distributed according to subsections (b), (c), and (d) of this section of the rule;
 - (b) 30 percent of the available grant funding shall be allocated to the regions based upon the mean average heating zone of the counties in a region multiplied by the number of households that spend greater than six percent of their income on home energy costs and as a result are considered energy burdened;
 - (c) 40 percent of the available grant funding shall be allocated to the regions based upon the mean average cooling zone of the counties in a region multiplied by the number of households that spend greater than six percent of their income on home energy costs and as a result are considered energy burdened;
 - (d) Allocations to eligible entities selected for each federally recognized Indian tribe in Oregon will consist of the allocation of available grant funding under subsection (a) of this section of the rule, plus a proportion of the funding to the regions within a tribe's service area under subsections (b) and (c). This proportion shall be based upon the proportion of occupied housing units in a tribe compared to the total number of occupied households in the regions in the service area of the tribe.
- (6) Grantees shall, at a minimum, collect and process applications, verify project eligibility, and use grant funds to provide financial assistance to cover eligible purchase, installation, and upgrade costs.

STATUTORY/OTHER AUTHORITY: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)

ADOPT: 330-270-0030

RULE TITLE: Entity Eligibility

NOTICE FILED DATE: 11/29/2022

RULE SUMMARY: This rule details who is eligible to apply for a grant and for what region of the state an entity may apply for.

RULE TEXT:

(1) To be eligible to receive a grant, an eligible entity must establish in its application to the Department that it:

(a) Serves or represents:

(A) At least one environmental justice community within a region; or

(B) Members of a federally recognized Indian tribe in Oregon; and

(b) Has the capacity to administer grant funds for the program.

(2) Where an eligible entity serves or represents a community that is located within more than one region, that eligible entity may only apply for a grant for the region within which the greatest percentage of individuals of the community the entity serves or represents reside.

(3) An eligible entity may apply for a grant for one region or tribe and be a partner on an application by another eligible entity for another region or tribe.

(4)(a) An eligible entity that serves a specific geographic area may propose, in consultation with any electric utility that serves the area, that the Department use alternative boundaries to define a region.

(b) Changes to one region's boundary may affect adjacent regions' boundaries but shall not result in an increase in the number of regions or overlapping of regional boundaries. Changes to one region's boundary may result in a decrease in the number of regions.

(c) The Department may approve the use of alternative boundaries if:

(A) 51 percent or more of the eligible entity's service area is within the proposed alternative boundaries; and

(B) There are viable coverage options for other impacted regions.

STATUTORY/OTHER AUTHORITY: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)

ADOPT: 330-270-0040

RULE TITLE: Use of funds

NOTICE FILED DATE: 11/29/2022

RULE SUMMARY: This rule details how the grant funds may be used; the heat pump efficiency targets that financial assistance may be awarded for; additional heat pump project requirements; and requirements regarding payments for related upgrades.

RULE TEXT:

(1) A minimum of 85 percent of the awarded grant funds must be reserved for use by an eligible entity to provide financial assistance to individuals who reside within the entity's region or who are members of that tribe for the purchase and installation of heat pumps and related upgrades. An eligible entity may use a percentage, as specified in a performance agreement, not to exceed 15 percent, of the awarded grant funds for program related administrative expenses and marketing costs.

(2) Eligible administrative and marketing costs include the following costs if they are necessary to administer and market the program:

(a) Direct costs to establish, implement, and monitor the program including staffing, materials, supplies, and travel.

(b) Other costs the department determines should be eligible because they are necessary to administer or market the program.

(3) Ineligible administrative and marketing costs include the following:

(a) Existing indirect costs including rent and utility costs.

(b) Other costs the department determines should be ineligible.

(4) An individual who benefits from the financial assistance must be the owner-occupant of a residential dwelling in Oregon where the heat pump will be installed.

(5) Financial assistance may be provided in the following forms:

(a) Loans, which must be zero-percent interest.

(b) Grants.

(c) Rebates.

(d) Incentives.

(6) To be eligible for financial assistance for its purchase and installation, a heat pump must meet, or exceed, the following minimum requirements and meet the requirements in 330-270-0040(11):

(a) A split-system heat pump that has an HSPF2 of 7.5 and a SEER2 of 14.3, or equivalent HSPF and SEER value.

(b) A single-package heat pump that has an HSPF2 of 6.7 and a SEER2 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) A 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) A open loop water-to-water heat pump that has an EER of 20.1 and a COP of 3.5.

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

(7) The maximum amount per dwelling that may be payable toward the purchase and installation of a heat pump that meets or exceeds the minimum requirements in 330-270-0040(6) but does not meet the minimum requirements in 330-270-0040(8) is \$5000, not to exceed 100 percent of the purchase and installation costs of a heat pump.

(8) An eligible entity may propose a financial assistance offering higher than that specified in 330-270-0040(7) for a higher efficiency heat pump up to the maximum amount specified in 330-270-0040(9). To be eligible for financial assistance for its purchase and installation, a higher efficiency heat pump must meet or exceed the following requirements and meet the requirements in 330-270-0040(11):

(a) A split-system air source heat pump that has an HSPF2 of 8.1 or greater and a SEER2 of 16 or greater, or equivalent HSPF and SEER value.

(b) A single-package air source heat pump that has an HSPF2 of 8 or greater and a SEER2 of 16 or greater, 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 or greater and a SEER2 of 16 or greater, or equivalent HSPF and SEER value.

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

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

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

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

(h) A direct geexchange heat pump that has an EER of 17 or greater and a COP of 3.8 or greater

(9) The maximum amount per dwelling that may be payable toward the purchase and installation of a heat pump that meets or exceeds the minimum requirements in 330-270-0040(8) is \$7000, not to exceed 100 percent of the purchase and installation costs of a heat pump.

(10) An eligible entity may propose in their application financial assistance offerings lower than the maximum amounts established in these rules and may propose different levels of financial assistance for different types of heat pumps.

(11) To be eligible for financial assistance, the installation of the heat pump must meet the following requirements:

(a) 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.

(b) The heat pump must be appropriately sized to the space or structure.

(c) The heat pump must be installed to heat and cool a living area in a residential dwelling, a space such as a garage is not eligible.

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

(e) The heat pump system must receive all applicable electrical, mechanical or structural permits from the local jurisdiction and pass all final inspections conducted by the authority having jurisdiction.

(f) The heat pump's auxiliary heat control must be set at or below a temperature of 35 degrees Fahrenheit, unless the eligible entity permits a higher temperature setting or in situations when supplemental heating is required during a defrost cycle or system failure. An eligible entity must propose situations in which a higher temperature would be permitted in their application to the program.

(g) The heat pump system must be installed by a contractor. 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.

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

(i) The installation of the heat pump system must include at least a one-year labor warranty covering the system.

(12) An eligible entity may propose additional project eligibility or higher efficiency requirements for heat pump installations in their application.

(13) An eligible entity may propose in their application financial assistance offerings for the purchase and installation of a heating or cooling device that has an efficiency rating similar to or higher than that of a heat pump and that provides additional benefits such as improving indoor air quality or lowering an individual's energy burden. The proposal must outline the efficiency requirements and required additional benefits of a heating or cooling device that would be required for it to be eligible. The maximum amount per dwelling that may be payable toward the purchase and installation of a heating or cooling device is \$4000, not to exceed 100 percent of the purchase and installation costs of a heating or cooling device.

(14) The grantee shall reduce the amount payable toward the purchase and installation if the amount combined with other incentives received for the purchase and installation of a heat pump, or heating or cooling device, exceeds 100 percent of the purchase and installation cost.

(15) The grantee may use grant funds to cover \$4000 per dwelling, up to 100 percent of the costs, for eligible related

upgrades that support or enable the use of a heat pump. Eligible related upgrades that support or enable the use of a heat pump include the following:

- (a) A new electrical panel or other upgrades to the electrical system of a home or building.
- (b) Weatherization or other structural repairs that reduce home or building heat and cooling loss.
- (c) Upgrades to improve the airflow of a home or building.

(16) The grantee shall reduce the amount payable toward the related eligible upgrades if the amount combined with other incentives received that are related to the upgrades exceeds 100 percent of the cost of the upgrades.

(17) A grantee shall prioritize the provision of financial assistance to:

(a) Environmental justice communities as defined in ORS 469A.400. The following outlines how an individual qualifies as a member of an environmental justice community, unless an eligible entity proposes an alternative method for a region or tribe that the Department accepts. If the Department does not accept the proposed alternative method, it shall default to the method outlined below:

(A) Community of color: an individual who self identifies as an ethnicity and/or racial heritage other than white alone.
(B) Community experiencing lower incomes: an individual whose household income is equal to or below the highest of the following:

- (i) 200 percent of the federal poverty level.
- (ii) 60 percent of the state median income.

(C) Tribal communities: an individual who is a member of a federally recognized Indian tribe in Oregon.

(D) Rural communities: an individual whose primary residence is in a community with a population of less than 50,000 people.

(E) Coastal communities: an individual whose primary residence is located within the area between the Oregon coast to the crest of the coast range.

(F) Communities with limited infrastructure: an individual whose primary residence is in a place with limited access to public works and services such as roads, transportation, power, water, or schools.

(G) Seniors: an individual who is aged 60 years or older.

(H) Youth: an individual whose age is equal to or between 15 and 24 years.

(I) Persons with disabilities: an individual who has a physical or mental impairment that substantially limits one or more major life activities.

(b) Individuals who rely on bulk fuels or electric resistance heating.

(c) Individuals who reside in a home or structure that does not have a functioning heating or cooling system.

(18) An eligible entity shall use an attestation by the individual to determine which, if any, prioritized categories the individual qualifies for, unless the entity is proposing to prioritize through outreach or marketing, in which case the entity may attest whether an individual or community qualifies.

(19) An eligible entity shall propose the methods of prioritization in their application. Methods of prioritization may include, but are not limited to:

- (a) A waiting list;
- (b) Expedited processing times;
- (c) Outreach or marketing.

(20) If awarded a grant, an electric utility may only provide financial assistance using grant funds to individuals who reside within the utility's service area and are within the region for which they have been awarded a grant. The utility shall partner with one or more eligible entities to provide financial assistance to individuals who reside outside the utility's service area and within the region they have been awarded a grant for.

STATUTORY/OTHER AUTHORITY: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)

ADOPT: 330-270-0050

RULE TITLE: Funding application, funding award and agreement

NOTICE FILED DATE: 11/29/2022

RULE SUMMARY: This rule outlines the application requirements for the community heat pump deployment program and the evaluation preferences. Details regarding the performance agreement for a grant are included.

RULE TEXT:

- (1) An eligible entity may apply for a grant by submitting a complete grant application. The application must meet requirements provided by applicable statutes, these rules and the applicable funding announcement.
- (2) The application must be submitted using a form specified by the Department and include at a minimum the following information:
 - (a) Identification of applicant and partners:
 - (A) The name of the applicant.
 - (B) The name, address, email address and telephone number of the responsible party for the applicant.
 - (C) The names and roles of any partners to the application.
 - (b) The region or federally recognized Indian tribe in Oregon the entity is applying for.
 - (c) A description of how the entity serves or represents:
 - (A) An environmental justice community or communities within a region; or
 - (B) Members of a federally recognized Indian tribe in Oregon.
 - (d) A description of:
 - (A) The entity's capacity to administer any grant funds received.
 - (B) The proposed financial offerings and heat pump installation requirements.
 - (C) The proposed methods to prioritize financial assistance to the individuals and communities listed in OAR 330-270-0040(17). This should include a description of how individuals and communities that meet more than one prioritization category will be prioritized.
 - (D) The upgrades eligible to receive financial assistance.
 - (E) The estimated budget for administrative and marketing expenses.
 - (e) Other information requested in the application.
- (3) The Department will evaluate all applications for funding to ensure the requirements in statute, rule, and in the funding announcement are met. In awarding grants, the Department shall give preference to eligible entities with:
 - (a) Experience in administering state grant programs or programs similar to the Heat Pump Deployment Program.
 - (b) Experience with community program development within a region or with members of a tribe
 - (c) Connections to communities within a region or with members of a tribe.
- (4)(a) Eligible entities selected to be awarded a grant shall have 30 calendar days from the date on which the performance agreement is provided to the applicant to accept the performance agreement. An applicant's failure to accept the performance agreement by the deadline may cause the rejection of the grant application.
 - (b) If an eligible entity fails to enter into a performance agreement within 30 calendar days of the date on which the department provided the performance agreement to the entity, the department may select an alternative applicant.
- (5) The performance agreement must include the following terms and may also include additional terms:
 - (a) The maximum amount of the grant and the entity to which funds will be disbursed.
 - (b) The maximum duration of the performance agreement.
 - (c) Record keeping, reporting, and compliance monitoring requirements as detailed in OAR 330-270-0060.
 - (d) A provision allowing the performance agreement to be terminated for reasons stated in the agreement and subject to terms described in the agreement.
 - (e) The grant payment schedule.
 - (f) Provisions regarding repayment of unspent funds at checkpoints specified in the agreement and at the end of the of the agreement. Unspent funds that are repaid may be reallocated by the Department to one or more grantees based

upon the funding allocation formula in OAR 330-270-0020(5). Calculation of reallocated funds using the formula will exclude those grantees who have repaid unspent funds.

STATUTORY/OTHER AUTHORITY: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)

ADOPT: 330-270-0060

RULE TITLE: Record keeping, reporting, and compliance monitoring

NOTICE FILED DATE: 11/29/2022

RULE SUMMARY: This rule details the record keeping and reporting requirements for entities, and their partners, awarded a grant under the community heat pump deployment program.

RULE TEXT:

- (1) Grantees and their partners must maintain accurate financial records satisfactory to the department, which document the receipt and disbursement of all Community Heat Pump Deployment Program funds. Grantees must have an accounting system in place satisfactory to the department.
- (2) Grantees and their partners must maintain other Community Heat Pump Deployment Program records satisfactory to the Department.
- (3) To ensure proper compliance and monitoring of the Community Heat Pump Deployment Program, grantees and their partners must:
 - (a) Provide the Department access to and permit copying of all electronic and hardcopy accounts, documents, audits, and records.
 - (b) Cooperate fully in any inspections or other monitoring actions taken by the Department.
 - (c) Retain and keep accessible all Community Heat Pump Deployment Program records and data as requested by the Department.
 - (d) Conduct and keep records of their own inspection of heat pump installations as specified in the performance agreement.
- (4) The department may conduct reviews, audits, inspections and other compliance monitoring as it deems appropriate with respect to each grantee and its partners to verify compliance with the program requirements. Grantees and their partners must cooperate fully with the Department in its compliance monitoring activities.
- (5) Grantees must require by contract and monitor their partners' compliance with all program requirements including, but not limited to, recordkeeping and retention of records.
- (6) Grantees and their partners shall notify the electric utility serving the home that a heat pump is being installed and state whether grant funds may be used for necessary electric distribution system upgrades associated with the installation of the heat pump.
- (7) Each grantee must provide a report to the Department prior to June 30 of each year with data through a date specified in the performance agreement. The report shall not include the personal information of the recipients of financial assistance, but must include:
 - (a) A detailed description of the grantee's, and their partner's, use of grant funds;
 - (b) A list of each funding payment the grantee, and their partner(s), has provided, and in the case of loans, a full accounting of the repayment status;
 - (c) The nature and amounts of the administrative expenses and marketing costs the grantee has incurred in providing payments under the program;
 - (d) Any other information required by the Department.
- (8) In addition to the reporting requirements in (7), each grantee must provide reports during the year at a frequency determined by the Department and specified in the performance agreement. The required information may be different from those outlined in (7).

STATUTORY/OTHER AUTHORITY: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)

ADOPT: 330-270-0070

RULE TITLE: Performance of grantees, remedies

NOTICE FILED DATE: 11/29/2022

RULE SUMMARY: This rule outlines the actions the Oregon Department of Energy can take to remedy any deficiencies in the performance of an entity, or their partners.

RULE TEXT:

(1) The Department reserves the right to identify deficiencies in the performance of any grantee or their partners discovered during compliance monitoring activities and take remedial action upon the grantees, including, but not limited to terminating its funding agreement with a grantee and requiring repayment of Community Heat Pump Deployment Program funding.

(2) To remedy any identified deficiencies, the Department:

(a) Must issue a deficiency notice notifying a grantee of deficiencies identified through the monitoring process and provide documentation for the basis of such determination and the specific deficiencies that must be corrected;

(b) Must require the grantee to correct any deficiencies in a manner and time satisfactory to the Department.

(3) A grantee must repay to the Department grant funds that the grantee, or their partners, does not use in accordance with the provisions of the performance agreement.

(4) The Director of the Oregon Department of Energy may order the grantee repay a portion or all of the grant funds if the Director finds that there are grounds of misappropriation, fraud or similar reasons after auditing or investigating the grantee's, or their partner's, operations and conducting a contested case hearing under ORS 183.413 to 183.470.

STATUTORY/OTHER AUTHORITY: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)

STATUTES/OTHER IMPLEMENTED: Oregon Laws 2022, Chapter 86 (Senate Bill 1536)