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DRAFT FINAL ADMINISTRATIVE RULES Residential Energy Performance Rating and Disclosure Summary of Proposed Amendments

The following summary provides the purpose for each substantive rule change.

1. Clarification that the definition of a covered building does not include floating homes

A floating home is defined by PCC 28.02 as a floating structure used as a one- or two-family dwelling or sleeping unit that is supported by a floatation system. The U.S. Department of Energy Home Energy Score is unable to model the energy performance of floating homes due to the unique nature of these structures. As a result, BPS has clarified the definition of a covered building to exclude floating homes.

2. Realtor references removed

Per real estate community feedback, we have modified all references to “realtor” or “real estate agent” to “real estate licensee” to comprehensively refer to any individual who may be professionally representing a seller or buyer in a home sale or purchase.

3. Home Energy Performance Reports issued prior to December 18, 2018

As the Home Energy Performance Report template is being modified, this language was added to account for the possibility that a select set of previously generated reports cannot be updated to the new format but will remain valid.

4. Expiration of Home Energy Scores and Reports

We added language to clarify that while the physical Home Energy Performance Reports need to be reprinted every two (2) years, the Home Energy Score itself does not expire for eight (8) years. This clarification is also reflected in language on the Home Energy Performance Reports.

5. Including the Home Energy Performance Report in real estate listings

The interim rules anticipated that online listing services could make uploaded documents available for public viewing. What is actually the case is that a document URL can be included in a text section of the listing. The rule language is modified accordingly.



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6. Exemption for properties under control of a court-appointed receiver

The original exemption language stipulated that a covered building is exempt from the policy if under control of a court-appointed receiver due to financial distress. Real-estate industry stakeholders have raised concerns about other legally complex situations, such as the death of a property owner where the property is under control of the court-appointed receiver — but not due to financial distress, which prompted the removal of “due to financial distress”. After further research, BPS determined that the legal definition of a court appointed receiver is specific to financial distress and added “due to financial distress” back to the definition.

7. Exemption for not accessible properties

The original exemption language accounted for legally condemned properties but did not account for properties which have not gone through the process of legal condemnation, but which might otherwise be a health or safety hazard for an assessor to attempt to enter. Language has been added to allow for this exemption.

8. Additional methods to apply for exemptions and waivers

The bureau has created online forms to simplify application for exemptions and waivers. Applicants can still apply by email or postal mail.

Online application form for exemptions and waivers

9. Energy Trust EPS New Construction program waiver

Home with Energy Performance Scores (EPS) must include specific language in all public real estate listings indicating their participation in the program and waiver from Home Energy Score. It was determined that the statement, originally drafted and agreed upon by stakeholders, was too long and could not be accommodated by the character limits of the listing services. The statement has been modified to accommodate the character limit.

10. Removal of Part 3.4 requirements for home energy assessors

Real-estate professionals, home energy assessors and home inspectors notified BPS with concerns about the administrative rule requiring home energy assessors to use the City of Portland building code definition for a sleeping room in a one- or two-family dwelling to consistently determine the number of bedrooms for the Home Energy Score model. The building code sets standards for egress and smoke detectors, which are often nonconforming in



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the existing single-family housing stock. The administrative rule created a technical requirement that some homes would be assessed as having zero bedrooms.

Instead of a rule change, BPS will issue policy guidance to home energy assessors to use their professional experience and discussions with the homeowner or real-estate professional to determine the appropriate number of bedrooms, by balancing how the home:

1. Will be marketed for sale;
2. Is currently being used; and/or
3. Conforms with sleeping room requirements in Portland City Code 29.30.210.

11. Addition of policy addressing the confidentiality of personally-identifying information voluntarily provided to Bureau of Planning and Sustainability

The bureau has determined the need to collect sensitive personally-identifying information from individuals applying for exemptions and income-qualified financial assistance. To provide protections for this sensitive information, BPS shall treat applicant information as confidential submissions under Oregon law. Therefore, the names of applicants and contact information about them, such as addresses, phone numbers or email, will not be released to the public. Reasonable precautions will be undertaken to provide confidential treatment and to redact personally-identifying information if a public records request is received seeking such information. Please note, the Home Energy Score and Report are required by law and not considered as personally-identifying information. All Home Energy Scores and Reports will be publicly available.

12. Modifications to Home Energy Reports for existing and newly constructed homes

Modifications have been made to the Home Energy Report content and format. These changes are based on previously submitted stakeholder feedback:

1. Clarifications have been made regarding the expiration dates for the Home Energy Score and the printed and electronic Home Energy Report to ensure that rules are readily understandable to the general public.
2. The high end of the carbon footprint scale has been changed from 35 to 15 tons per year to better represent the scale of carbon emissions from Portland homes.
3. The average home's carbon footprint has been changed to better align with Portland's 2015 Climate Action Plan goals to reduce household carbon pollution to 3 metric tons per year by 2030.
4. The "Estimated energy savings with improvements" and the "Estimated carbon reduction with improvements" have been clarified to note that the information is "per year."



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5. Renewable generation revenues are now deducted from the estimated annual energy cost.
6. References to Enhabit have been replaced with Community Energy Project (CEP) as Enhabit transferred all Home Energy Score business components to CEP.
7. Recommended improvements were expanded to include both “Priority Energy Improvements” with a 10-year or less payback and “Additional Energy Improvements” which may have a longer return on investment but still have a significant impact on the home’s efficiency and comfort.

Questions? Concerns? We're here to help.

Please refer any questions or comments to HESinfo@portlandoregon.gov, or call 503-823-5771, or mail to: Attn: Home Energy Score program, Bureau of Planning and Sustainability, 1900 SW 4th Avenue, Suite 7100, Portland, OR 97201 .

Please visit www.pdxhes.com to learn about upcoming Portland Home Energy Score program activities.