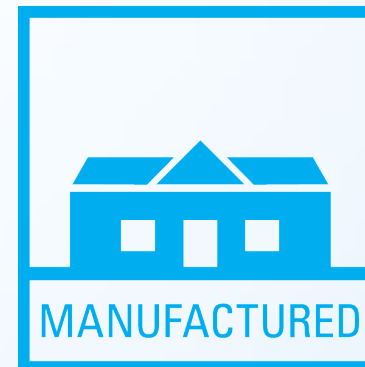




§ 45L New Energy Efficient Home Tax Credit Update

Presented on December 5, 2023





(NOT APPROVED BY THE IRS)

Context

- Congressional/Legislative Language
 - We're stuck with it... Even if it doesn't make sense; even if we don't like it; even if it conflicts with existing EPA policies or definitions
- IRS' role and limitations
 - Can only clarify Statutory language and interpret Congressional intent
 - Cannot change requirements/conditions written into the Statute
- EPA's role and limitations
 - Provide technical and programmatic support to IRS in developing guidance
 - Modify ENERGY STAR program policies and documentation (where needed) to facilitate the implementation of Statutory language
 - Cannot change requirements/conditions written into the Statute

The Basics

- As part of the IRA, the § 45L New Energy Efficient Home Tax Credit was updated and extended through 2032.
- For eligible homes and apartments **acquired** on or after January 1, 2023, the credit is now specifically tied to **certification** to an eligible version of the relevant ENERGY STAR (or DOE Zero Energy Ready) program requirements.
- In September 2023, the IRS issued Notice 2023-65, providing additional guidance on the § 45L credit as amended by the IRA.

Summary of Available Credits for ENERGY STAR Certification

- Single-Family Homes - **\$2,500** available for homes certified to eligible ENERGY STAR Single-Family New Home (SFNH) requirements.
- Manufactured Homes - **\$2,500** available for homes certified to eligible ENERGY STAR Manufactured Home (MH) requirements.
- Multifamily Homes - **\$500** available for homes certified to eligible ENERGY STAR Multifamily New Construction (MFNC) requirements,
 - A larger tax credit (**\$2,500**) is available when prevailing wage requirements are met.

A larger tax credit (**2x ENERGY STAR levels**) is also available for homes that are certified to DOE's Zero Energy Ready Home (ZERH) Program, which requires ENERGY STAR certification as a prerequisite.

Key Points from IRS Notice 2023-65

- “Meets ENERGY STAR program requirements” means that a home must be certified.
- For the ENERGY STAR tax credit, minimum eligible program versions are based on acquisition date (not permit date)
- Where EPA has defined a newer version of the ENERGY STAR program requirements applicable to the location, the new version is deemed to meet minimum requirements.
 - For example, a home certified to v3.2 also meets the v3.1 requirement.
- A dwelling unit built in a location where EPA has defined regional program requirements must meet both national and applicable regional ENERGY STAR program requirements to qualify for the § 45L credit.
- Homes in U.S. territories (PR, USVI, Guam, & NMI) are not eligible for the § 45L credit.
 - However, under EPA policy, these homes can still earn ENERGY STAR certification.

§ 45L Changes Everything... and Nothing

- The tax credit is optional
 - Builders can continue to pursue ENERGY STAR certification without the tax credit
- The § 45L requirements overlay EPA's policies for ENERGY STAR, but do not replace or negate them
 - Except in cases where EPA has made explicit adjustments to policy
- Most EPA policies are unchanged
 - EPA will continue to analyze and announce state-by-state implementation timelines for new versions based on state code adoption
 - Homes may continue to be certified as ENERGY STAR using versions of the program requirements that are not eligible for the § 45L credit



Minimum ENERGY STAR Program Versions Eligible for the § 45L Credit

- Eligible minimum versions are either called out explicitly in the legislation or governed by EPA's defined effective dates for program requirements.
 - Eligible versions then transition over time according to the timelines prescribed in § 45L.
- The minimum eligible program version is determined relative to the dwelling's acquisition date (not the permit date).
 - For DOE's ZERH, the permit date does govern the eligible version for § 45L.
- Tables of eligible program versions are currently available for acquisitions in 2023, 2024, and 2025 for all sectors, and for 2026 for multifamily homes.
 - Program version eligibility for single-family and manufactured homes in 2026 will be available in January 2024, and for future years annually in January thereafter.

Minimum ENERGY STAR Program Versions Eligible for the § 45L Credit

2023 Acquisition Dates
Minimum ENERGY STAR Program Versions Eligible for the § 45L Credit

State/Territory	Single-Family	Manufactured	Multifamily
AL, AK, AR, AZ, CO, CT, DC, DE, GA, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NM, NV, NY, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, VT, WI, WV, WY	SFNH National v3.1	MH v2	MFNC National v1.1
CA	SFNH California v3.3	MH v2	MFNC California v1.3
FL	SFNH Florida v.3.1; or SFNH National v3.1	MH v2	MFNC National v1.1
HI	SFNH Pacific v3	MH v2	MFNC National v1.1
OR, WA	SFNH Oregon and Washington v3.2; or SFNH National v3.2	MH v2	MFNC Oregon and Washington v1.2; or MFNC National v1.2



Minimum ENERGY STAR Program Versions Eligible for the § 45L Credit

2024 Acquisition Dates
 Minimum ENERGY STAR Program Versions Eligible for the § 45L Credit

State/Territory	Single-Family	Manufactured	Multifamily
AL, AK, AR, AZ, CO, CT, DC, DE, GA, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NM, NV, NY, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, VT, WI, WV, WY	SFNH National v3.1	MH v2	MFNC National v1.1
CA	SFNH California v3.3	MH v2	MFNC California v1.3
FL	SFNH Florida v.3.1; or SFNH National v3.1	MH v2	MFNC National v1.1
HI	SFNH Pacific v3	MH v2	MFNC National v1.1
OR, WA	SFNH Oregon and Washington v3.2; or SFNH National v3.2	MH v2	MFNC Oregon and Washington v1.2; or MFNC National v1.2

Minimum ENERGY STAR Program Versions Eligible for the § 45L Credit

2025 Acquisition Dates
Minimum ENERGY STAR Program Versions Eligible for the § 45L Credit

State/Territory	Single-Family	Manufactured	Multifamily
AL, AK, AR, AZ, CO, CT, DC, DE, FL, GA, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NM, NV, NY, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, VT, WI, WV, WY	SFNH National v3.2	MH v2	MFNC National v1.1
CA	SFNH California v3.3	MH v2	MFNC California v1.3
HI	SFNH Pacific v3	MH v2	MFNC National v1.1
OR, WA	SFNH National 3.2	MH v2	MFNC Oregon and Washington v1.2; or MFNC National v1.2



Minimum ENERGY STAR Program Versions Eligible for the § 45L Credit

2026 Acquisition Dates*
 Minimum ENERGY STAR Program Versions Eligible for the § 45L Credit

State/Territory	Single-Family	Manufactured	Multifamily
AL, AK, AR, AZ, CO, CT, DC, DE, FL, GA, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NM, NV, NY, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, VT, WI, WV, WY	To be determined	To be determined	MFNC National v1.1
CA	To be determined	To be determined	MFNC California v1.3
HI	To be determined	To be determined	MFNC National v1.1
OR, WA	To be determined	To be determined	MFNC Oregon and Washington v1.2; or MFNC National v1.2



What's the Acquisition Date?

- The term “acquired” is defined by the IRS to include purchase, as well as leasing by a person from an eligible contractor (i.e., builder) for use as a residence during the taxable year.
- A home is not considered to be acquired if the eligible contractor retains the home for use as a residence.
- For more information, see Section 5 (Definitions) in the IRS Notice.

IRS [Notice 2023-65](#) establishes that the ZERH program requirements under which homes must be certified are provided on the DOE Zero Energy Ready Home Program Requirements webpage:

<https://www.energy.gov/eere/buildings/doe-zero-energy-ready-home-zerh-program-requirements>

DOE ZERH Program Home Page

Zero Energy Ready Home Program

ZERO ENERGY READY HOME

- 45L and ZERH
- Partner Central
- **Program Requirements**
- DOE-Recognized ZERH Certification Organizations
- Program Resources
- Housing Innovation Awards
- FAQs

What is a DOE Zero Energy Ready Home?

A DOE Zero Energy Ready Home is a high-performance home that is so energy efficient that a renewable energy system could offset most or all the home's annual energy use. Each DOE Zero Energy Ready Home meets rigorous efficiency and performance criteria found in the DOE Zero Energy Ready Home National Program Requirements. Most types of new homes in the U.S. are eligible to participate in the DOE Zero Energy Ready Home program, and the homes are verified by a qualified third-party as part of the certification process.



The Section 45L Tax Credit for Energy Efficient New Homes has been updated and extended through 2032. Beginning 1/1/2023, it directly references the DOE Zero Energy Ready Home Program. See FAQs, guidance, and implementation timelines here.

45L and ZERH

Partner Locator

Find a Zero Energy Ready Home Builder Near You!

DOE Tour of Zero

Take a Look Inside Zero Energy Ready Homes Across the Country!

DOE ZERH Program Version Effective Dates		
National (except California)		
Program Version and Revision Number	Required for Use, if Home's Permit Date is on/after this Date	Project Type
Version 1, Rev. 7	6/1/2019	Single family, multifamily up to 5 stories
Version 1, Rev. 8	1/1/2023	
Version 1, Rev. 9 ^a	1/1/2024	Multifamily, any height
Single Family Version 2, Rev. 1	1/1/2024	Single Family
Multifamily Version 2	1/1/2025	Multifamily, any height
^a Multifamily buildings of any height certified under Version 1, Rev. 9 are deemed to meet the certification requirements for Version 1, Rev. 8 where that revision is required.		
California Only		
Program Version and Revision Number	Required for Use, if Home's Permit Date is on/after this Date	Project Type
CA Version 1, Rev. 7	10/1/2018 ^b	Single family, multifamily up to 5 stories
CA Version 1, Rev. 8	1/1/2023 ^b	
CA Single Family Version 2	1/1/2024	Single family
CA Multifamily Version 2 ^c	1/1/2024	Multifamily, any height
^b If both plan approval and permit date are not on/after this date the prior revision may be used.		
^c Multifamily buildings of any height certified under CA Multifamily Version 2 are deemed to meet the certification requirements for CA Version 1, Rev. 8, where that version is required.		
Manufactured Homes		
Program Version and Revision Number	Required for Use, if Home's Production Date is on/after this Date	Project Type
Manufactured Homes Version 1 (Pilot)	1/1/2023	Manufactured homes (specifications apply nationally, including California)

ZERH program version in effect is based on:

- Building type
- Project location
- **Permit Date**



ENERGY STAR Policies Related to the § 45L Credit

- In support of the implementation of § 45L and IRS Notice 2023-65, EPA has adopted new policies regarding:
 - Accepted documentation of ENERGY STAR certification for the § 45L tax credit,
 - Defined effective dates of program requirements, and
 - Deemed certifications for national and regional program requirements.

ENERGY STAR Policies Related to the § 45L Credit

- For full details, visit the ENERGY STAR Tax Credits webpage for more information (follow the link to ‘Tax Credits for Home Builders’)

www.energystar.gov/taxcredits

- And refer to “ENERGY STAR Policies in Support of § 45L Credit”

ENERGY STAR Policies Related to the § 45L Credit:

ENERGY STAR program requirements, eligibility requirements, and applicability of national and regional program requirements can be found on the [ENERGY STAR Program Requirements webpage](#).

In support of the implementation of the § 45L credit and IRS Notice 2023-65, EPA has adopted new policies related to the defined effective dates of program requirements, deemed certifications for national and regional program requirements, and accepted documentation of ENERGY STAR certification as detailed in the document below. Note that these policies are solely for the purpose of the § 45L credit and do not modify the normal procedures of the ENERGY STAR New Construction programs nor the technical requirements that dwelling units must meet to earn ENERGY STAR certification.

- [ENERGY STAR Policies in Support of § 45L Credit \(PDF, 1.6 MB\)](#)

ENERGY STAR Policies Related to the § 45L Credit

Accepted Documentation of ENERGY STAR Certification

- § 45L specifies that an eligible contractor must obtain the required certification for a dwelling unit before claiming the tax credit, per established program rules.
- In support of § 45L, EPA has provided a list of eligible documents that demonstrate proof of certification for the ENERGY STAR programs for each sector on the ENERGY STAR website.
- Eligible documents must originate directly from an EPA-recognized oversight organization (HCO, MRO, or QAP), or be generated via approved rating software by an HCO-approved designee (i.e., an energy rating company).

ENERGY STAR Policies Related to the § 45L Credit

Accepted Documentation of ENERGY STAR Certification

Program	Document Title
SFNH	<ul style="list-style-type: none">• ENERGY STAR Certificate• RESNET Rated Home Label• BSI 45L ENERGY STAR Report
MFNC	<ul style="list-style-type: none">• ENERGY STAR Certificate• ENERGY STAR Multifamily Whole Building Certificate• RESNET Rated Home Label• BSI 45L ENERGY STAR Report
MH	<ul style="list-style-type: none">• SBRA ENERGY STAR Manufactured Home Certificate• NEEM Certificate of Compliance

For more information, and to see examples of each form of accepted documentation, consult the ENERGY STAR website.

ENERGY STAR Policies Related to the § 45L Credit

ENERGY STAR Certificate:



ENERGY STAR® CERTIFIED

NEW CONSTRUCTION

Builder/Developer: Gamble Builders
Permit Date/Number: 4 April 2011
Home/Unit Address: 1310 L Street
 Washington DC 20005
Rating Company: G Force Testing
Rater ID Number: 2345678
Rating Date: 6 July 2011
Overight By: Generic HCO
Program/Version Number: v3

Your Energy Rating Index: 63



This value is not intended to be used for code compliance.

Standard Features of ENERGY STAR Certified New Homes and Apartments

Your ENERGY STAR certified new home or apartment has been designed, constructed, and independently verified to meet rigorous requirements for energy efficiency set by the U.S. Environmental Protection Agency (EPA), including:

<p>Thermal Enclosure System</p> <p>A complete thermal enclosure system that includes comprehensive air sealing, quality installed insulation, and high-performing windows to deliver improved comfort and lower utility bills.</p> <p>Air Infiltration Test: 4 ACH50</p> <p>Primary Insulation Levels: Ceiling: R-30 Floor: R-10 Wall: R-19 Slab: R-6</p> <p>Primary Window Efficiency: U-Value: 0.60 SHGC: 0.27</p>	<p>Water Management System</p> <p>A comprehensive water management system to protect roofs, walls, and foundations.</p> <p>Flashing, a drainage plane, and site grading to move water from the roof to the ground and then away from the home or building.</p> <p>Water-resistant materials or below-grade walls and underneath slabs to reduce the potential for water entering the home or building.</p> <p>Management of moisture levels in building materials during construction.</p>
<p>Heating, Cooling, and Ventilation System</p> <p>A high efficiency heating, cooling, and ventilation system that is designed and installed for optimal performance.</p> <p>Total Duct Leakage: Duct Leakage to Outdoors: 6 CFM25 per 100 sq. ft. 4 CFM25 per 100 sq. ft.</p> <p>Primary Heating (System Type • Fuel Type • Efficiency): Fuel fired Hydronic Distribution • Natural Gas • 90 AFUE</p> <p>Primary Cooling (System Type • Fuel Type • Efficiency): Ground-source Heat Pump • Electric • 14.5 SEER</p> <p>Whole-House Ventilation Type (System Type): Balanced</p>	<p>Energy Efficient Lighting and Appliances</p> <p>Energy efficient products to help reduce utility bills, while providing high-quality performance.</p> <p>Energy Efficient Lighting: 75%</p> <p>ENERGY STAR Certified Appliances and Fans: Refrigerators: 1 Dishwashers: 1 Ceiling Fans: 4 Exhaust Fans: 3</p> <p>Primary Water Heater (System Type • Fuel Type • Efficiency): Electric Resistance Heater • Electric • 0.94 EF</p>

About this certificate

The certificate provides a summary of the major energy efficiency and energy conservation features that contribute to this home or apartment earning the ENERGY STAR, as determined through independent inspection and verification performed by a trained professional. The Energy Rating Index or HERS index for this home, if applicable, is consistent in accordance with ANSI/AIAA/ICC Standard 261, with any exceptions approved by EPA. Because the version of standard 261 used to calculate this index may not align with the version currently in force, the value is not intended to be used to demonstrate compliance with code. Note that when a home or apartment contains multiple performance levels for a particular feature (e.g., window efficiency or insulation levels), the index value shown does not represent all features and apartments may be certified to have the ENERGY STAR using a varying protocol, whereby one home or apartment is randomly selected from a pool for representative inspections and testing. In such cases, the National Institute for Standards and Technology (NIST) will be able to assist in determining the actual values for your home or apartment. This data often is available to better performance.

ENERGY STAR Policies Related to the § 45L Credit

Program Requirement Effective Dates

- § 45L specifies that the version of ENERGY STAR program requirements eligible for the tax credit depends, in part, on the version that was “in effect” on certain dates relative to the dwelling’s acquisition.
- However, EPA has not historically defined general effective dates for new versions.
 - Rather, EPA defines state-by-state implementation dates, based on code adoption.
- To support § 45L, EPA has now defined a version’s effective date as the first January 1 after the original release.
 - Exception: For the three versions released in 2022 but not implemented (SFNH National v3.2, MFNC National v1.2, and MH v3), EPA has defined the effective date as January 1, 2024 (rather than January 1, 2023).



ENERGY STAR Policies Related to the § 45L Credit

Deemed Certification of National and Regional Program Requirements

- The IRS Notice confirmed that a dwelling built in a location where EPA has defined a regional program requirement must meet both national and applicable regional ENERGY STAR requirements to qualify for § 45L credit.
- This conflicted with EPA's prior policy that homes be certified to either the national program requirements or the applicable regional requirements, but not both.
- To support § 45L, EPA has reconciled ENERGY STAR policies for the two scenarios where regional program requirements have been developed:
 1. Increased stringency of state code (but fundamentally compatible w/ model code)
 2. Differences in state code structure and/or building practices

ENERGY STAR Policies Related to the § 45L Credit

Scenario 1: Increased stringency of state code

- In FL, OR, and WA, EPA deems:
 - Homes/apartments certified under the regional requirements to also be certified under any national program requirement version(s) of equal or lesser rigor; and
 - Homes/apartments certified under the national requirements to also be certified under any regional program requirement version(s) of equal or lesser rigor.

Scenario 2: Differences in state code structure and/or building practices

- In CA and HI, homes will continue to be certified using the applicable regional version (not the national version).
 - EPA addressed the § 45L requirement by deeming homes/apartments certified under these regional programs versions to also be certified under all current versions of the national programs eligible for the tax credit.

ENERGY STAR Policies Related to the § 45L Credit

EPA is not defining deemed national certifications in these cases:

- For SFNH California v3.2 and MFNC California v1.2
 - Because the minimum versions required by 45L based on the effective dates are SFNH California v3.3 and MFNC California v1.3
- For SFNH Caribbean v3 and MFNC Caribbean v1; and SFNH Pacific v3 outside of Hawaii
 - Because the IRS clarified that homes in U.S. territories (i.e., PR, USVI, Guam, and the NMI) are not eligible for the § 45L tax credit



Key Takeaways

- Eligibility for the § 45L tax credit requires ENERGY STAR (or ZERH) certification
- For ENERGY STAR, minimum eligible program versions are based on acquisition date (not permit date)
- Minimum eligible versions are published in tables by year on EPA's tax credit website
- Builders should collect approved documentation of ENERGY STAR certification for their records
- The § 45L tax credit is optional

Questions?

- If not covered in these slides or on our website, we probably can't answer.
- Per the IRS: *“Individuals or entities looking to claim the credit should consult with a tax professional to determine whether and how they can claim the credit and determine whether the credit can be used with other tax incentives or Federal incentives.”*

Visit the ENERGY STAR Tax Credits webpage for more information
(follow link to 'Tax Credits for Home Builders'):

www.energystar.gov/taxcredits

2023 ENERGY STAR Partner Meeting Webinar Series

Thursday, December 7 th 1 PM Eastern	Overview of the Latest Revisions (Rev.13 & 04) of the ENERGY STAR Single-Family and Multifamily Programs
Monday, December 11 th 1 PM Eastern	Strengthening the ENERGY STAR Certification System's Quality Assurance and Quality Control Requirements
Tuesday, December 12 th 1 PM Eastern	Just Launched: ENERGY STAR NextGen New Homes and Apartments Program

Register at www.energystar.gov/partner_resources/residential_new/educational_resources/energy_star_webinars.

Each webinar will be recorded and available for playback afterward on our Recorded Webinars page:
www.energystar.gov/partner_resources/residential_new/educational_resources/energy_star_webinars/recorded_webinars

Happy Tax Crediting!

