

Register for order

**FRIDAY, JANUARY 5, 1979
PART VII**



**DEPARTMENT OF
ENERGY**

■

**GRANT PROGRAMS FOR
CONDUCTING TECHNICAL
ASSISTANCE PROGRAMS AND
ADOPTION OF ENERGY
CONSERVATION MEASURES FOR
SCHOOLS, HOSPITALS, UNITS OF
LOCAL GOVERNMENT AND
PUBLIC CARE INSTITUTIONS**

**Proposed Rulemaking and Announcement of
Public Hearings**

[6450-01-M]

DEPARTMENT OF ENERGY

[10 CFR Part 455]

[Docket No. CAS-RM-78-503]

GRANT PROGRAMS FOR SCHOOLS AND HOSPITALS AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

Proposed Rulemaking and Public Hearing

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearings.

SUMMARY: The Department of Energy (DOE) proposes to implement cost sharing grant programs for conducting technical assistance programs and adoption of energy conservation measures for schools, hospitals, units of local government and public care institutions pursuant to Title III of the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, 92 Stat. 3206. Technical assistance programs will identify and evaluate attainable energy conservation objectives. Energy

applications will be reviewed by responsible State agencies for conformance with previously approved State Plans and forwarded at specified times to DOE. States will be eligible to receive grants to defray administrative and other expenses on a cost-sharing basis.

DATES: Written comments must be received by February 3, 1979, 4:30 p.m., e.s.t.

Hearings will be held on January 22-24, 1979, in Seattle, Wash., and Chicago, Ill., beginning at 9:30 a.m., local time; and on January 23, 1979, in Washington, D.C., beginning at 9:30 a.m., e.s.t.

Requests to speak at the hearings must be directed to DOE at the address given below for the appropriate city and must be received before 4:30 p.m., local time, on January 17, 1979.

ADDRESSES: Send written comments to: Office of State Specific Programs,

Department of Energy, Room 6456, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461.

See "XII. Comment Procedures" under Supplementary Information below.

Hearings:

City	Hearing date	Submit requests to testify to—	Hearing location
Seattle, Wash.	Jan. 22, 1979 through Jan. 24, 1979.	Gilbert Haselberger, DOE, 1923 Federal Bldg., Seattle, Wash. 98174.	Hilton Hotel Downtown, 6th and University, Seattle, Wash.
Chicago, Ill.	do	Ken Johnson, DOE, 175 West Jackson, 3d floor, Chicago, Ill. 60604.	Pick Congress Hotel, 520 South Michigan Ave., Chicago, Ill.
Washington, D.C.	Jan. 23, 1979 through Jan. 25, 1979.	Margaret Sibley, Office of State Specific Programs, DOE, room 6456, 12th and Pennsylvania Ave. NW., Washington, D.C. 20461.	Department of Energy, room 3000A, 12th and Pennsylvania Ave. NW., Washington, D.C.

conservation measures will include the acquisition and installation of specific conservation systems or fixtures to reduce energy use and anticipated energy costs in school and hospital buildings. Participation in the programs is voluntary. The Secretary will make grants to States, schools, hospitals, units of local government and public care institutions for technical assistance programs, and to States, schools and hospitals for energy conservation measures.

DOE will be responsible for general program oversight. However, program management, including financial auditing, monitoring and evaluation of activities in a given State, will be the responsibility of that State. Grant ap-

See "XII. Comment Procedures" under Supplementary Information below.

FOR FURTHER INFORMATION CONTACT:

Michael Willingham, Director, State Specific Programs, Office of Conservation and Solar Applications, Room 6456, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633-8640.

SUPPLEMENTARY INFORMATION:

- I. Introduction.
- II. Technical Assistance Programs.
- III. Energy Conservation Measures.
- IV. Allocation of Funds.
- V. State Plans.
- VI. Applications.

VII. State Evaluation and Ranking of Applications.

VIII. Program Reports.

IX. Grant Awards.

X. Reporting Requirements.

XI. Nondiscrimination.

XII. Comment Procedures.

XIII. Consultation With Other Federal Agencies, Environmental and Urban Reviews and Regulatory Analysis.

I. INTRODUCTION.

The Department of Energy proposes to amend Chapter II of Title 10 CFR by adding Subparts C through I to a previously proposed new Part 455 (see Notice of Proposed Rulemaking, 43 FR 58158 *et seq.*, dated December 12, 1978). This proposed regulation will fulfill the requirements of Title III of the Energy Policy and Conservation Act (Act), Pub. L. 94-163, 89 Stat. 871, by adding Parts G and H. Part G of the Act establishes cost-sharing energy conservation grant programs for States and public and nonprofit schools and hospitals to assist in the conduct of preliminary energy audits and energy audits, identification of cost-effective energy conservation maintenance and operating procedures and in the evaluation, acquisition and installation of energy conservation measures to reduce the energy use and anticipated energy costs of schools and hospitals.

Part H of the Act establishes cost-sharing energy conservation grant programs for States, units of local government and public care institutions to assist in the conduct of preliminary energy audits and energy audits, identification of cost-effective energy conservation maintenance and operating procedures and in the evaluation of energy conservation measures to reduce energy use and anticipated energy costs of buildings owned by units of local government and public care institutions.

DOE has already published proposed regulations for providing financial assistance to States for the conduct of preliminary energy audits and energy audits (43 FR 58158 *et seq.*, dated December 12, 1978). This proposed regulation prescribes criteria and procedures (1) for development of State Plans and approval thereof by DOE, (2) for implementation of energy conservation measures in schools and hospitals and (3) for implementation of technical assistance programs for schools, hospitals, units of local government and public care institutions. Upon DOE approval of a State Plan, a State energy agency may accept and review applications for financial assistance from eligible institutions. If applications are approved by a State as being in conformance with its approved State Plan and this regulation, the State will forward the ap-

plications once during a grant program cycle to DOE. Subject to approval by DOE, grants may then be awarded. For purposes of this regulation, a "grant program cycle" is a period of time to be specified by DOE, which is related to the fiscal year for which grant funds are appropriated during which one complete cycle of grant activity occurs, including DOE allocation of appropriations to the States, application review and approval, and grant award.

Funds available to DOE for grant awards to a State or eligible institutions thereof will be limited to sums allocated to a given State based upon a formula which includes population, climate and fuel cost factors. Neither schools nor hospitals may receive more than 70 percent of the total amount allocated to a State for schools and hospitals programs. Except in the case of severe hardship for schools and hospitals, Federal funds available for grants for technical assistance programs and energy conservation measures must be matched with at least an equal share of non-Federal funds. Moneys for the non-Federal portion of any program or measure must come from State, local or private sources and cannot, for example, be derived from revenue sharing or any other Federal source.

Grants to a State for administrative expenses may also be made for up to 50 percent of such costs. However, a grant for this purpose will not exceed 5 percent of the total granted to all institutions in a given State for a grant program cycle. DOE is particularly interested in receiving comments on this aspect of the grants program. DOE proposes to utilize funds appropriated pursuant to section 397(b) of the Act for energy conservation project grants and section 400G(b) of the Act for technical assistance grants, to fund grants to States for the purpose of helping to defray the State's administrative expenses of evaluating, financial auditing, monitoring and other activities in connection with the various energy conservation programs for schools, hospitals, units of local government and public care institutions. The funds available for this purpose, while limited by this regulation to 5 percent of the amounts actually awarded in a given State in a particular year, would draw upon the entire amount appropriated for energy conservation projects in the case of schools and hospitals, and the entire sum appropriated for technical assistance programs in the case of units of local government and public care institutions. A limit on grants for State administrative expenses appears consistent with sections 398(a), 398(d) and 400F(d) of the Act. A 5 percent grant ceiling on such expenses is believed

reasonable and generally consistent with administrative expense limitations of other Federal grant programs.

This proposed regulation is designed to assure consistency with related State programs so as to maximize the energy conservation goals of NECPA. It is anticipated that the grant programs established by DOE under the new Part 455 will effectively encourage the implementation of programs and measures which will promote energy conservation in facilities owned by schools, hospitals, public care institutions and units of local government in accordance with the Congressional purpose as stated in NECPA.

II. TECHNICAL ASSISTANCE PROGRAMS

For these grant programs to realize their full potential, it is important that all no-cost and low-cost energy saving operating and maintenance procedures be undertaken as early as possible. Therefore, to be eligible for technical assistance program grants, all institutions must have instituted cost-effective energy conservation operation and maintenance procedures identified as a result of an energy audit. Operations and maintenance procedures are actions which require no significant investment in equipment or materials and which clearly reduce the energy use of the building, with no adverse effect on the quality or amount of services provided. They include procedures such as adjusting thermostats, improving furnace maintenance or reducing air-change rates. Under these proposed regulations, a "cost-effective" procedure is an action which can be reasonably expected to result in energy cost-savings which exceed the costs, such as increased labor requirements associated with implementing the procedure. A significant portion of the energy savings potential of a facility can be realized through the implementation of sound operations and maintenance procedures.

For purposes of this regulation, the term "technical assistance" means a program or activity for (1) the conduct of specialized studies to identify and specify energy savings and related cost savings that are likely to be realized as a result of either modifying operation and maintenance procedures in a building, or acquiring and installing one or more energy conservation measures in a building, or both and (2) the planning or administration of such specialized studies. In addition, for States, schools and hospitals, which are eligible to receive grants to carry out energy conservation measures, the term "technical assistance" also means the planning or administration of specific remodeling, renovation, repair, replacement, or insulation projects relat-

ed to the installation of energy conservation measures in a building.

A technical assistance program will include a detailed engineering analysis of a building to determine its cost-effective potential for conserving energy and using solar or other alternative energy resources. Under this proposed regulation such an audit will be conducted only by a "technical assistance auditor" qualified as such in accordance with applicable State standards or criteria. At a minimum, a technical assistance auditor must have experience in energy conservation matters and be a registered professional engineer, or an architect-engineer team. Grants for a technical assistance program will be available for buildings owned by units of local government, public care institutions, schools and hospitals.

Technical assistance auditors will not be permitted to have significant financial interests in the building for which technical assistance is to be performed, nor in the materials and equipment that are expected to be used. The individual(s) performing technical assistance audits will be required to provide to the grantee institution a statement certifying (1) as to the absence of any significant financial interest in the program and (2) as to their qualifications under State standards and DOE regulations to serve as a technical assistance auditor.

III. ENERGY CONSERVATION MEASURES

The grant program for schools and hospitals will offer financial assistance for the acquisition and installation of energy conservation measures after the completion of a technical assistance program, or its equivalent. The measures listed and defined in § 455.42 of the proposed regulation are not all-inclusive. Measures recommended by technical assistance auditors, but not listed in this regulation, may still be eligible for funding if shown to have the potential for saving a substantial amount of energy. Support for detailed designs, specifications and installation plans for the energy conservation measures proposed for funding will also be provided.

Although it appears that energy conservation measures have applicability to all regions of the Nation, the practicality of using a particular measure will be determined by calculation of the simple payback of that measure. DOE proposes that energy conservation measures having a simple payback period greater than 15 years will not be eligible for grants under this program. This limitation has been selected to permit consideration of a wide range of available technologies, while precluding the expenditure of limited funding to analyze very high cost energy conservation measures

having a long payback period. DOE solicits comments regarding the 15-year simple payback period limitation.

IV. ALLOCATION OF FUNDS

From the funds appropriated for use in each grant program cycle DOE will offer financial assistance to conduct technical assistance programs and acquire and install energy conservation measures. NECPA requires that DOE allocate funds among the States on the basis of such factors as population, climate, fuel availability and fuel cost. The formula developed by DOE to allocate funds among the States presently contains population, climate and fuel cost factors. DOE solicits comments on methods for acquiring fuel availability data and on the feasibility of utilizing a fuel availability factor in the allocation formula. At such time as reliable fuel availability data is acquired, DOE may modify the allocation formula for subsequent grant program cycles.

Initially, funds will be allocated among the States on the basis of a three-part formula. Eighty-three percent of the funds appropriated for each fiscal year will be allocated on the basis of population and climate (heating and cooling degree days) factors. Seven percent of the funds will

be allocated on an equal share basis. The latter percentage is utilized to insure that no State, not including the territories or the District of Columbia, is allocated less than 0.5 percent of the total amount available in any grant program cycle, as required by NECPA. Ten percent of the amounts appropriated will be allocated based upon a forecast of the average cost per million Btu's of energy consumed within a national region. Population figures for each State and the District of Columbia are based upon 1976 Bureau of Census estimates. Population figures for the territories were taken from the 1973 Bureau of Census estimates, the latest available for those areas. Population totals for both States and territories are set forth in Table 1. Fuel costs are based upon DOE projections to 1985 as published in the Administrator's Annual Report 1978, Energy Information Administration, and are set forth in Table 2. Climate information is taken from the National Oceanic and Atmospheric Administration State heating and cooling degree tables, reflecting the annual average by State for 30 years, 1941 through 1970. Table 3 presents this data.

Combining these factors as indicated by the proposed formula produces a State allocation factor as shown in Table 4.

[6450-01-C]

TABLE 1

STATE	POPULATION (IN THOUSANDS)	STATE SHARE OF NATIONAL POP.
ALABAMA	3665	0.0168
ALASKA	382	0.0018
ARIZONA	2270	0.0104
ARKANSAS	2109	0.0097
CALIFORNIA	21520	0.0988
COLORADO	2583	0.0119
CONNECTICUT	3117	0.0143
DELAWARE	582	0.0027
DIST. OF COL.	702	0.0032
FLORIDA	8421	0.0387
GEORGIA	4970	0.0228
HAWAII	887	0.0041
IDAHO	831	0.0038
ILLINOIS	11229	0.0516
INDIANA	5302	0.0243
IOWA	2870	0.0132
KANSAS	2310	0.0106
KENTUCKY	3428	0.0157
LOUISIANA	3841	0.0176
MAINE	1070	0.0049
MARYLAND	4144	0.0190
MASSACHUSETTS	5809	0.0267
MICHIGAN	9104	0.0418
MINNESOTA	3965	0.0182
MISSISSIPPI	2354	0.0108
MISSOURI	4778	0.0219
MONTANA	753	0.0035
NEBRASKA	1553	0.0071
NEVADA	610	0.0028
NEW HAMPSHIRE	822	0.0038
NEW JERSEY	7336	0.0337
NEW MEXICO	1168	0.0054
NEW YORK	18084	0.0830
NORTH CAROLINA	5469	0.0251
NORTH DAKOTA	643	0.0030
OHIO	10690	0.0491
OKLAHOMA	2766	0.0127
OREGON	2329	0.0107
PENNSYLVANNIA	11862	0.0545
RHODE ISLAND	927	0.0043
SOUTH CAROLINA	2848	0.0131
SOUTH DAKOTA	686	0.0031
TENNESSEE	4214	0.0193
TEXAS	12487	0.0573
UTAH	1228	0.0056
VERMONT	476	0.0022
VIRGINIA	5032	0.0231
WASHINGTON	3612	0.0166
WEST VIRGINIA	1821	0.0084
WISCONSIN	4609	0.0212
WYOMING	390	0.0018
AMERICAN SAMOA	28	0.0001
GUAM	100	0.0005
PUERTO RICO	2951	0.0135
VIRGIN ISLANDS	83	0.0004
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U.S. TOTAL	217820	1.0000

TABLE 2
OIL IMPORT PRICE: 15.32

DEMAND REGION AVERAGE RETAIL PRICE SUMMARY IN 1978 \$/MILLION BTUS

SECTOR(FUEL)	DEMAND REGIONS							WEST	MIDWEST	TOTAL	
	PENNS.	OHIO	MID-ATL	S. ATL	MIDWEST	S. WEST	CENTRAL				
RESIDENTIAL	5.11	5.66	4.14	7.97	4.56	5.20	4.41	4.10	5.59	4.82	5.39
(ELECT.)	13.31	15.91	13.89	11.05	12.00	11.87	12.70	9.65	12.66	5.65	11.71
(DIST.)	3.89	3.97	4.16	4.23	3.79	3.90	3.69	3.87	3.85	3.85	3.93
(LG)	5.90	4.01	4.32	4.52	5.99	3.92	3.91	4.07	3.94	5.44	4.04
(COAL)	2.07	1.95	1.64	1.97	1.75	1.63	1.68	1.37	1.75	1.76	1.82
(NG)	4.53	4.13	3.56	3.15	3.11	2.39	2.11	2.26	3.35	3.65	3.09
COMMERCIAL	4.78	6.45	6.45	6.65	5.15	6.02	6.05	5.26	4.85	4.22	5.65
(ELECT.)	13.22	17.69	13.31	11.18	11.94	11.26	12.43	8.80	11.71	5.61	12.01
(DIST.)	3.64	3.71	3.76	3.76	3.60	3.64	3.51	3.64	3.56	3.56	3.66
(RESID.)	2.67	2.96	3.27	3.27	3.12	2.97	3.10	3.01	2.92	2.85	2.99
(LG)	3.27	3.27	3.27	3.27	3.49	3.27	3.46	3.47	3.27	3.27	3.38
(COAL)	2.07	1.95	1.64	1.97	1.75	1.63	1.68	1.37	1.75	1.76	1.82
(ASPHALT)	3.18	3.18	3.18	3.17	3.20	3.13	3.15	3.19	3.07	3.07	3.15
(NG)	3.86	3.53	3.11	2.53	2.78	2.44	3.46	3.13	2.83	3.05	2.94
RAW MATERIAL*	3.43	3.35	3.18	2.92	3.25	3.27	3.28	3.20	3.08	2.92	3.22
(LG)	3.61	3.61	3.61	3.58	3.59	3.54	3.52	3.56	3.44	3.54	3.54
(OIL)	3.16	3.18	3.18	3.17	3.20	3.13	3.15	3.19	3.07	3.07	3.15
(NG)	3.29	2.83	2.69	2.19	2.44	2.16	3.10	2.65	2.44	2.37	2.33
INDUSTRIAL**	4.86	4.54	3.92	4.94	3.44	2.98	4.79	3.16	3.85	5.28	3.79
(ELECT.)	10.97	9.47	10.47	9.40	9.37	9.57	10.55	7.30	9.90	3.86	9.24
(DIST.)	5.64	3.64	3.66	3.85	3.60	3.63	3.50	3.68	3.58	3.56	3.67
(RESID.)	3.92	3.06	3.19	2.87	3.10	2.96	3.07	2.98	2.92	2.97	2.99
(LG)	5.66	3.74	3.95	3.96	3.82	3.70	3.76	3.65	3.69	3.69	3.79
(COAL)	2.07	1.95	1.64	1.97	1.75	1.63	1.66	1.37	1.75	1.76	1.76
(MET COAL**)	2.14	2.08	1.47	2.10	2.02	2.12	1.95	2.21	2.54	2.70	2.03
(NAPHTHA)	3.61	3.61	3.61	3.58	3.59	3.54	3.52	3.56	3.44	3.44	3.56
(NG)	5.24	2.83	2.69	2.24	2.44	2.16	3.10	2.65	2.44	2.37	2.31
TRANSPORTATION	5.74	5.79	5.67	5.63	5.67	5.22	5.52	5.49	5.38	5.42	5.55
(ELECT.)	12.44	14.25	12.35	10.33	10.61	10.64	11.74	8.54	11.37	4.96	13.22
(DIST.)	4.79	4.84	5.00	4.99	4.75	4.77	4.65	4.82	4.71	4.71	4.62
(RESID.)	2.92	3.06	3.19	2.87	3.10	2.96	3.07	2.96	2.92	2.97	2.94
(LG)	3.27	3.27	3.27	3.27	3.49	3.27	3.46	3.47	3.27	3.27	3.31
(GASOLINE)	6.05	6.27	6.03	5.94	5.96	5.73	5.83	5.87	6.01	6.02	5.96
(JET FUEL)	4.12	4.23	4.49	4.54	4.05	4.16	3.93	4.16	4.10	4.10	4.22
AVERAGE PRICE	5.16	5.62	5.08	5.76	4.67	3.83	5.01	4.40	5.11	4.42	4.62

*LIQUID GAS IN THE RAW MATERIAL SECTION INCLUDES LIQUID GAS FEEDSTOCK.
 **MET COAL INCLUDES 70% PREMIUM COAL AND 30% BITUMINOUS LOW SULFUR COAL.
 ***INDUSTRIAL SECTION HERE DOES NOT INCLUDE REFINERIES.

TABLE 3

STATE	HEATING DEGREE DAYS	COOLING DEGREE DAYS	STATE SHARE HDD + CDD
ALABAMA	2695	1999	0.0134
ALASKA	12012	8	0.0344
ARIZONA	2298	2624	0.0141
ARKANSAS	3214	1892	0.0146
CALIFORNIA	2728	669	0.0097
COLORADO	7004	336	0.0210
CONNECTICUT	6130	507	0.0190
DELAWARE	4780	1021	0.0166
DIST. OF COL.	4750	1015	0.0165
FLORIDA	704	3368	0.0117
GEORGIA	2684	1859	0.0130
HAWAII	1	3528	0.0101
IDAHO	6917	415	0.0210
ILLINOIS	6058	950	0.0201
INDIANA	5713	952	0.0191
IOWA	6834	876	0.0221
KANSAS	4900	1543	0.0184
KENTUCKY	4414	1254	0.0162
LOUISIANA	1701	2636	0.0124
MAINE	8002	222	0.0235
MARYLAND	4782	1015	0.0166
MASSACHUSETTS	6232	467	0.0192
MICHIGAN	6739	593	0.0210
MINNESOTA	8729	473	0.0263
MISSISSIPPI	2411	2223	0.0133
MISSOURI	5024	1332	0.0182
MONTANA	8292	239	0.0244
NEBRASKA	6347	1099	0.0213
NEVADA	4370	1500	0.0168
NEW HAMPSHIRE	7535	297	0.0224
NEW JERSEY	5470	877	0.0182
NEW MEXICO	4766	972	0.0164
NEW YORK	5899	677	0.0188
NORTH CAROLINA	3392	1454	0.0139
NORTH DAKOTA	9484	421	0.0284
OHIO	5779	797	0.0188
OKLAHOMA	3508	2003	0.0158
OREGON	5254	193	0.0156
PENNSYLVANNIA	5755	723	0.0185
RHODE ISLAND	5924	445	0.0182
SOUTH CAROLINA	2697	1885	0.0131
SOUTH DAKOTA	7681	801	0.0243
TENNESSEE	3801	1458	0.0151
TEXAS	2015	2669	0.0134
UTAH	6580	630	0.0206
VERMONT	7873	293	0.0234
VIRGINIA	4286	1113	0.0155
WASHINGTON	5752	171	0.0170
WEST VIRGINIA	5108	849	0.0171
WISCONSIN	7531	541	0.0231
WYOMING	7895	326	0.0235
AMERICAN SAMOA	1	5325	0.0152
GUAM	1	5520	0.0158
PUERTO RICO	704	4907	0.0161
VIRGIN ISLANDS	704	5427	0.0176
::			
U.S. TOTAL	271860	77389	0.9655

PROPOSED RULES

TABLE 4

STATE	.07*1/N+.1*SF/NF+.83*SPC/NPC=			ALLOCATION FACTOR
ALABAMA	.0013	.0021	.0112	.0146
ALASKA	.0013	.0016	.0030	.0059
ARIZONA	.0013	.0019	.0073	.0104
ARKANSAS	.0013	.0014	.0070	.0097
CALIFORNIA	.0013	.0019	.0475	.0507
COLORADO	.0013	.0016	.0123	.0152
CONNECTICUT	.0013	.0019	.0134	.0166
DELAWARE	.0013	.0019	.0022	.0053
DIST. OF COL.	.0013	.0019	.0026	.0058
FLORIDA	.0013	.0021	.0223	.0257
GEORGIA	.0013	.0021	.0147	.0181
HAWAII	.0013	.0019	.0020	.0052
IDAHO	.0013	.0016	.0040	.0069
ILLINOIS	.0013	.0017	.0511	.0541
INDIANA	.0013	.0017	.0230	.0260
IOWA	.0013	.0018	.0144	.0175
KANSAS	.0013	.0018	.0097	.0128
KENTUCKY	.0013	.0021	.0126	.0160
LOUISIANA	.0013	.0014	.0108	.0135
MAINE	.0013	.0019	.0057	.0089
MARYLAND	.0013	.0019	.0156	.0188
MASSACHUSETTS	.0013	.0019	.0253	.0285
MICHIGAN	.0013	.0017	.0434	.0464
MINNESOTA	.0013	.0017	.0237	.0267
MISSISSIPPI	.0013	.0021	.0071	.0105
MISSOURI	.0013	.0018	.0197	.0228
MONTANA	.0013	.0016	.0042	.0071
NEBRASKA	.0013	.0018	.0075	.0106
NEVADA	.0013	.0019	.0023	.0055
NEW HAMPSHIRE	.0013	.0019	.0042	.0074
NEW JERSEY	.0013	.0021	.0303	.0336
NEW MEXICO	.0013	.0014	.0044	.0070
NEW YORK	.0013	.0021	.0773	.0806
NORTH CAROLINA	.0013	.0021	.0172	.0206
NORTH DAKOTA	.0013	.0016	.0041	.0070
OHIO	.0013	.0017	.0457	.0487
OKLAHOMA	.0013	.0014	.0099	.0126
OREGON	.0013	.0016	.0082	.0111
PENNSYLVANIA	.0013	.0019	.0499	.0531
RHODE ISLAND	.0013	.0019	.0038	.0070
SOUTH CAROLINA	.0013	.0021	.0085	.0119
SOUTH DAKOTA	.0013	.0016	.0038	.0067
TENNESSEE	.0013	.0021	.0144	.0178
TEXAS	.0013	.0014	.0380	.0407
UTAH	.0013	.0016	.0058	.0086
VERMONT	.0013	.0019	.0025	.0057
VIRGINIA	.0013	.0019	.0177	.0208
WASHINGTON	.0013	.0016	.0139	.0168
WEST VIRGINIA	.0013	.0019	.0070	.0102
WISCONSIN	.0013	.0017	.0242	.0272
WYOMING	.0013	.0016	.0021	.0050
AMERICAN SAMOA	.0013	.0019	.0001	.0032
GUAM	.0013	.0019	.0004	.0035
PUERTO RICO	.0013	.0021	.0108	.0141
VIRGIN ISLANDS	.0013	.0021	.0003	.0037
::				
U.S. TOTAL	.0700	.1000	.8300	1.0000

NECPA requires that, except for schools and hospitals in a class of severe hardship, The Federal share of the costs for any program or measure may not exceed 50 percent and the remainder of the costs of any technical assistance program or energy conservation measure must be provided from non-Federal sources. DOE proposes that in-kind contributions may be considered as part or all of the non-Federal share. In-kind contributions are subject to the limitations established in Subpart E of the proposed regulation and must be directly related to the program or measure to be approved. The inclusion of a school or hospital in the severe hardship category for up to 90 percent funding of a program or measure will be determined, among other factors, by the applicant's inability to match the 50 percent Federal share, by climatological conditions and by fuel costs or availability. DOE solicits comments on the criteria to be used in determining which schools and hospitals are in a class of severe hardship and the method for determining the maximum Federal share for any institution in a class of severe hardship.

Appropriations for support of this grant program will be made to DOE annually, one appropriation for programs and measures for schools and hospitals, another appropriation for technical assistant programs for units of local government and public care institutions. Separate allocations, using the formula described above, will be made to each State for each appropriation. DOE will inform each State of all allocation (and reallocation) actions.

Once a grant is made to a State or institution thereof, DOE anticipates that the funds will be obligated and expended in accordance with milestones established in the grant application. In the event a State does not forward a sufficient number of grant applications to DOE to award all funds allocated for use within that State in a given grant program cycle, DOE will reallocate such funds among all the States for the succeeding grant program cycle.

V. STATE PLANS

A State Plan is the planning document for organizing and managing technical assistance programs and energy conservation measures within the State for the duration of the entire grant program. States participating in the program will be responsible for preparing and implementing a DOE approved State Plan. A State's review, ranking and recommendation to DOE regarding applications received from prospective grantees will also be governed by the State Plan.

Each State will be responsible for direct oversight, monitoring and finan-

cial auditing of the programs and measures for which grants are awarded in that State to ensure compliance with program requirements. States will be responsible for notifying DOE promptly of any indication of non-compliance or misuse of grant funds. State Plans shall contain a description of the policies and procedures the State proposes to use in order to fulfill these responsibilities.

Basic data gathered about buildings as a result of the preliminary energy audits should be summarized in the State Plan, and estimates should also be made of possible energy savings, energy conservation needs and the number and types of buildings that may qualify for further financial assistance.

Key elements in the State Plan are the criteria and the procedures to be used in evaluating and ranking applications for financial assistance. Each State may establish in its State Plan any requirements, additional to those set forth in this regulation, which it considers necessary for planning and administering technical assistance programs and energy conservation measures in the State. States should, however, avoid placing undue administrative burdens on any applicants. State Plans must assure that equitable consideration is given to all eligible institutions.

The views of eligible institutions or Statewide organizations representing such institutions, or both, should be solicited and considered during the development of the State Plan. State Plans should also be reviewed by State school facilities agencies and State hospital facilities agencies, where such exist within a given State.

Until a State Plan, approved by DOE, for a given State is in effect, no financial assistance for technical assistance programs or energy conservation measures will be made available to institutions within that State.

State Plans must also set forth the extent to which, and by which methods, the State will encourage utilization of solar space heating, cooling and electric systems and solar water heating systems.

DOE recognizes that some States and municipalities have retained some regulations or building codes which may have the effect of impeding the introduction of energy-saving devices and equipment, particularly in the case of solar energy systems. Therefore, early review of applicable State regulations and local codes is encouraged to identify any restrictions or barriers to achievement of energy conservation goals which must be taken into account in formulating and implementing State Plans.

VI. APPLICATIONS

Applications for technical assistance program grants and energy conservation measures grants will be forwarded by the applicant to the State for its review, evaluation and ranking in priority according to criteria contained in the State Plan. Applicants must include all of the information required by Subpart E of the proposed regulation and any additional information required by the State. Applications which are consistent with the State Plan and applicable regulations should, at the time specified by DOE, be transmitted by the State to DOE for final approval and grant award. State applications for grants, including grants to defray administrative expenses, should be transmitted to DOE at the same time. Comments are requested concerning the scope and clarity of the requirements set forth in Subpart E of the proposed regulation and the ability of applicants to comply with those provisions.

VII. STATE EVALUATION AND RANKING OF APPLICATIONS

States will be responsible for reviewing and evaluating each application received for consistency with the State Plan, this regulation, and other applicable State, local and Federal laws and regulations. As an additional means for assuring that the programs and measures proposed for funding are coordinated with other State and Federal programs, as required by NECPA, States must forward applications received from schools and hospitals to the applicable State school facilities agency or State hospital facilities agency for review and certification as to compliance with State programs for educational facilities and State health plans.

States shall rank each building for which funding applications have been submitted. Such ranking must be based upon the energy conservation potential of the building as determined through an energy audit. States must also give preference to those applicants that have completed an energy audit without the use of Federal funds. States shall be responsible for developing any further specific ranking procedures and criteria for inclusion in a State Plan.

Simple payback periods will be the main criteria used to rank buildings covered by grant applications for energy conservation measures. Life-cycle costing, discounted payback and simple payback methodologies were considered for use as criteria for ranking applications. The simple payback methodology was chosen because it offers an opportunity to standardize payback calculations and thereby ease administration, and because it directly reflects the energy cost savings accru-

ing from an energy conservation measure.

For applications for financial assistance to implement energy conservation measures, Subpart F of the proposed regulation specifies the criteria which will be evaluated by the State. Each State will assign a specific weight, as justified by the conditions within the State, to each criterion set forth in the regulation and listed in order of descending priority. Thus, the projected payback period criterion must be given the greatest weight, conversion to renewable energy sources the next greatest weight, etc.

VIII. PROGRAM REPORTS.

It is important that the energy and cost savings achieved by participating institutions through this grants program be documented, not only to allow better monitoring of the operation of the grants program, but also to demonstrate what has been accomplished by the various energy conservation programs for schools, hospitals, units of local government and public care institutions. To this end, DOE proposes that each grantee submit an interim report to the State semi-annually until the program or measure is completed. This interim report should summarize progress and accomplishments, problems encountered, and other relevant information. Each State in turn will submit a semi-annual report to DOE summarizing the information received from the grantees. At the end of the program or measure, each grantee will also submit a final technical report to the State describing the work accomplished and the results achieved. A summary of that technical report must be forwarded to DOE simultaneously with the transmittal of the basic report to the State.

IX. GRANT AWARDS

Under Title III of NECPA, DOE may make grants of up to 50 percent of the cost of a technical assistance program to States, schools, hospitals, public care institutions and units of local governments, and up to 50 percent of the cost of an energy conservation measure to States, schools and hospitals.

As part of any grant award for technical assistance or energy conservation measures, DOE may concurrently grant up to 5 percent of the total of all grants made to institutions in a given State in a grant program cycle directly to that State to help defray its expenses of administration. The award of such grants on a cost-sharing basis should assure sufficient funds to the State to carry out its planning and administrative responsibilities under the program.

The total of all grant awards to schools and hospitals for funding tech-

nical assistance programs may not exceed 30 percent of the amounts appropriated to DOE for energy conservation project grants (pursuant to section 397(b) of the Act for the fiscal year ending September 30, 1978; 15 percent of such appropriations for the fiscal year ending September 30, 1979; and 5 percent of such appropriations for the fiscal year ending September 30, 1980.

X. REPORTING REQUIREMENTS

U.S. Government standard forms for grant-in-aid programs will be used insofar as possible. If there are any exceptions to this policy, they will be examined and justified element by element. At this time, the only modifications to the standard reporting requirements are to be included in the "Remarks" section of Standard Form 424. The proposed items are:

1. Certification of applicant eligibility,
2. Specific building identification,
3. Energy use and savings data,
4. Statement regarding implementation of cost-effective recommendations,
5. Detailed schedule of project activities,
6. Reports of other prerequisite actions taken in conjunction with this program,
7. Assurances regarding potential conflicts of interest,
8. Statements regarding the qualifications of technical assistance auditors, and
9. Statements regarding compliance with provisions of the Davis-Bacon Act and other Federal, State and local laws and regulations.

XI. NONDISCRIMINATION

DOE has published a proposed rulemaking in the FEDERAL REGISTER entitled, "Nondiscrimination in Federally Assisted Programs", 43 FR 53658 *et seq.*, November 16, 1978. Where applicable, grantees will be responsible for compliance with the provisions of that rulemaking upon publication of that final rulemaking.

XII. COMMENT PROCEDURES

(1) WRITTEN COMMENTS

Interested persons are invited to submit written comments with respect to the proposed regulation to the Office of State Specific Programs, Department of Energy, Room 6456, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the document with the designation "TA/ECP". Fifteen (15) copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room GA-152, Forrestal Build-

ing, 1000 Independence Avenue, SW, Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday. All comments and related information must be received by January 28, 1979, before 4:30 p.m., e.s.t., in order to insure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. Any material not accompanied by a statement of confidentiality will not be treated as confidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

(2) PUBLIC HEARINGS

DOE has determined that, in addition to the hearing in Washington, D.C., it will hold hearings in Chicago, Illinois and Seattle, Washington to receive oral presentations from interested persons.

The Washington, D.C. hearing will be held at 9:30 a.m., e.s.t., on January 23, 24, and 25, 1979, Room 3000A, 12th and Pennsylvania Ave., N.W., Washington, D.C.

Any person who has an interest in the proposed regulation or who is a representative of a group or class of persons which has an interest in it may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Margaret Sibley, Office of State Specific Programs, Department of Energy, Room 6456, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, and must be submitted on or before January 17, 1979, by 4:30 p.m., e.s.t. The person making the request should describe his or her interest in the proceeding and provide a concise summary of the proposed oral presentation and a phone number where he or she may be reached. Each person who, in DOE's judgment, proposes to present relevant material and information shall be selected to be heard and shall be notified by DOE of his or her participation before 4:30 p.m., e.s.t., January 19, 1979, and shall submit 15 copies of their proposed statement to Margaret Sibley, Office of State Specific Programs, Department of Energy, Room 6456, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461 by 9 a.m., e.s.t., January 23, 1979.

The hearings in Chicago, Illinois and Seattle, Washington will be held beginning at 9:30 a.m., local time, on the dates and at the locations specified below.

Any person who has an interest in this proceeding or is the representative of a group or class of persons which has an interest in it may make a written request for an opportunity to

make an oral presentation. Such a request should be directed to DOE, at the address given below for the appropriate city and must be received before 4:30 p.m., local time on January 17, 1979. Procedures for notification shall be the same as in the case of the Washington, D.C. hearing.

DOE also received comments and assistance from its Regional Offices.

In accordance with DOE's obligation under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, DOE is undertaking an environmental assessment of all programs under Title III of the NECPA.

1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency (EPA) for comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

In consideration of the foregoing, the Department of Energy proposes to amend Chapter II, Title 10 of the Code of Federal Regulations by adding new Subparts C through I to Part 455 as set forth below.

Issued in Washington, D.C., December 29, 1978.

OMI WALDEN,
Assistant Secretary, Conservation and Solar Applications,
Department of Energy.

10 CFR Part 455 is amended by establishing new Subparts C, D, E, F, G, H and I as follows:

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Subpart C—Technical Assistance Programs for Schools, Hospitals, Units of Local Government and Public Care Institutions

- Sec.
- 455.40 Purpose and Scope.
- 455.41 Eligibility.
- 455.42 Contents of Program.

Subpart D—Energy Conservation Measures for Schools and Hospitals

- 455.50 Purpose and Scope.
- 455.51 Eligibility.
- 455.52 Contents of Program.

Subpart E—Applicant Responsibilities

- 455.60 Grant Application Submittals.
- 455.61 Applicant Certifications.
- 455.62 Grant Applications for State Administrative Expenses.
- 455.63 Grantee Records and Reports.

Subpart F—State Responsibilities

- 455.70 State Evaluation of Grant Applications.
- 455.71 State Ranking of Grant Applications.
- 455.72 Forwarding of Applications.
- 455.73 State Duties.

Subpart G—Grant Awards

- 455.80 Approval of Grant Applications.
- 455.81 Grant Awards for Units of Local Government and Public Care Institutions.
- 455.82 Grant Awards for Schools and Hospitals.
- 455.83 Grant Awards for State Administrative Expenses.

Subpart H—State Plan Development and Approval.

- 455.90 Contents of State Plan.
- 455.91 Submission and Approval of State Plans.
- 455.92 State Plans Developed by the Secretary.

City	Hearing date	Submit requests to testify to—	Hearing location
Seattle, WA.....	Jan. 22, 1979 through Jan. 24, 1979.	Gilbert Haselberger, DOE, 1923 Federal Building, Seattle, WA 98174.	Hilton Hotel Downtown, 6th and University, Seattle, WA
Chicago, IL.....	Jan. 22, 1979 through Jan. 24, 1979.	Ken Johnson, DOE, 175 W. Jackson, Third Floor, Chicago, IL 60604.	Pick Congress Hotel, 520 South Michigan Ave., Chicago, IL

C. CONDUCT OF HEARINGS

DOE reserves the right to arrange the schedule of presentations to be heard and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated as presiding officer to chair the hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements.

Any participant who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant and material, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, Room GA 152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

XIII. CONSULTATION WITH OTHER FEDERAL AGENCIES, ENVIRONMENTAL AND URBAN REVIEWS AND REGULATORY ANALYSIS

In preparing this proposed regulation, issues and options were reviewed by representatives of the Secretary of the Department of Health, Education, and Welfare, and the Administrator of the Environmental Protection Agency.

This assessment and any additional NEPA review will be completed prior to the promulgation of the final rulemaking. NECPA also requires DOE to issue a final rule for these grant programs within a specified period after enactment. DOE seeks to afford members of the public at least 30 days to comment on this notice of proposed rulemaking. Consequently, DOE is unable to complete an environmental assessment to accompany this notice of proposed rulemaking.

This proposed regulation has been reviewed in accordance with Executive Order 12044, 43 FR 12661, and DOE's proposed directive implementing the Order published at 43 FR 18634 and, pursuant thereto, it has been determined to be a "significant regulation" likely to have a "major impact". A regulatory analysis is being prepared by DOE and will be made available to the public before issuance of a final regulation. Notwithstanding the determination that this proposed regulation is significant, which would usually require a 60 day comment period, the Deputy Secretary has approved a shorter comment period so that, consonant with the requirements of NEPCA, the final rule may be issued at the earliest practicable date.

This proposed regulation has also been reviewed in accordance with OMB Circular A-116 to assess the impacts on urban centers and communities. DOE has determined that the proposed regulation is a major policy and program initiative which requires formal urban and community impact analysis. Such analysis is being prepared by DOE for incorporation into the regulatory analysis required under Executive Order 12044.

DOE has been advised by the Office of Management and Budget (OMB) that this program is exempted from the requirements of OMB Circular A-95.

As required by section 7(c)(2) of the Federal Energy Administration Act of

**Subpart I—Allocation of Appropriations
Among the States**

- 455.100 Allocation of Funds.
455.101 Allocation Formulas
455.102 Reallocation of Funds.
455.103 Reallocation of Preliminary
Energy Audit/Energy Audit Funds.

AUTHORITY: Parts 1 and 2 of Title III of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.*, which establishes Parts G and H, respectively, of Title III of the Energy Policy and Conservation Act, Pub. L. 94-163, 42 U.S.C. 6321 *et seq.*; Section 365(e)(2), 42 U.S.C. 6325 (e)(2), of the Energy Conservation and Production Act, Pub. L. 94-385, 42 U.S.C. 6801 *et seq.*; Department of Energy Organization Act, Pub. L. 95091, 42 U.S.C. 7101 *et seq.*; Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224, 41 U.S.C. 501 *et seq.*; E.O. 12009, 42 FR 46267; E.O. 12044, 43 FR 12661.

**Subpart C—Technical Assistance Programs for
Schools, Hospitals, Units of Local Govern-
ment and Public Care Institutions**

§ 455.40 Purpose and scope.

This subpart sets forth the contents of technical assistance programs that may receive financial assistance under this part and determines the eligibility of States, as well as schools, hospitals, units of local government and public care institutions located in States that have an approved State Plan to receive grants for technical assistance to be performed in buildings owned by such institutions.

§ 455.41 Eligibility.

To be eligible to receive financial assistance for a technical assistance program, an applicant must—

- (a) Be a State, school, hospital, unit of local government or public care institution as defined in § 455.2;
- (b) Be a State having, or be located in a State which has, an approved State Plan as described in Subpart H of this part;
- (c) Subsequent to the most recent construction, configuration or utilization change to the building, have conducted an energy audit or its equivalent, as determined by the State, for the building or buildings for which financial assistance is to be requested;
- (d) Assure that it has implemented all cost-effective operations and maintenance procedures which are identified as a result of the energy audit;
- (e) Have no plan or intention at the time of application to close such building or buildings for which financial assistance is to be requested within the simple payback period of any measure proposed for the building; and
- (f) Submit an application in accordance with the provisions of this part and the approved State Plan.

§ 455.42 Contents of program.

(a) A technical assistance program shall include a detailed engineering analysis of a building by a technical assistance auditor to identify energy and cost savings likely to be realized as a result of implementing all cost-effective operation and maintenance procedures (in addition to those identified in an energy audit) and also, one or more energy conservation measures, including measures for conversion to solar or other alternative renewable energy sources.

(b) At the conclusion of a technical assistance program, the technical assistance auditor shall prepare a final report which shall include—

(1) A description of building characteristics and energy data including—

(i) Name and address of the building and its owner;

(ii) Weather and climate data including building orientation, shading, solar radiation, etc.;

(iii) Function of and use patterns for the building frequency and normal occurrence of energy consumption peaks;

(iv) Mechanical details for the heating, ventilation and air conditioning (HVAC) systems;

(v) Operating characteristics of other energy using systems, such as domestic hot water, lighting, and control systems;

(vi) Age and remaining useful life of the building; and

(vii) Any other relevant information developed during an energy audit of the building;

(2) An analysis of the estimated energy consumption of the building, in Btu's, at peak efficiency (assuming implementation of all cost-effective operations and maintenance procedures);

(3) An analysis of the building's potential for solar conversion, particularly for water heating systems;

(4) A description and analysis of all recommendations, if any, for acquisition and installation of energy conservation measures (including potential solar conversion) setting forth—

(i) A description of each recommended energy conservation measure;

(ii) An estimate of the cost of each such energy conservation measure;

(iii) An estimate of the energy cost savings expected from acquisition and installation of each energy conservation measure. In calculating the potential energy cost savings of each energy conservation measure, technical assistance auditors shall—

(A) Assume that all energy savings obtained from cost-effective operation and maintenance procedures identified by an energy audit or by the technical assistance program have been realized; and

(B) Calculate the total energy and energy cost savings expected to result

from the acquisition and installation of all recommended energy conservation measures, taking into account the interaction among the various measures; and

(C) Calculate that portion of the total energy and energy cost savings as determined, in (B) above, attributable to each individual energy conservation measure;

(iv) The simple payback period of each such energy conservation measure. The simple payback period is calculated by dividing the estimated cost of the measure by the estimated annual cost saving accruing from the measure. For the purposes of ranking applications, the simple payback period must be calculated using the cost saving resulting from energy savings only. Other economic analyses, such as life cycle costing, which consider all costs and cost savings, such as maintenance costs and/or savings, resulting from an energy conservation measure, may be provided as additional information for use by the institution in its decision-making process.

**Subpart D—Energy Conservation Measures for
Schools and Hospitals**

§ 455.50 Purpose and scope.

This subpart specifies what constitutes an energy conservation measure that may receive financial assistance under this part and sets forth the eligibility criteria for States, schools and hospitals located in States, which have an approved State Plan, to receive grants for energy conservation measures, including measures for conversion to solar, other renewable sources, or alternative energy resources.

§ 455.51 Eligibility.

(a) To be eligible to receive financial assistance for an energy conservation measure, an applicant must—

(1) Be a State, school, or hospital and otherwise meet the requirements contained in § 455.2;

(2) Be a State having, or be located in a State which has, an approved State Plan as described in Subpart H of this part;

(3) Subsequent to the most recent construction, configuration or utilization change to the building, have completed a technical assistance program or its equivalent, as determined by the State, for the building or buildings for which financial assistance is to be requested;

(4) Have implemented all cost-effective operation and maintenance procedures which are identified as the result of an energy audit and a technical assistance program;

(5) Have no plan or intention at the time of application to close such building or buildings for which financial assistance is to be requested within the

simple payback period of any energy conservation measure within each building for which financial assistance is requested; and

(6) Submit an application in accordance with the provisions of this part and the approved State Plan.

(b) To be eligible for financial assistance, the simple payback period of each energy conservation measure for which financial assistance is requested within each building shall not be greater than 15 years.

§ 455.52 Contents of program.

The program to be funded under this Subpart will be energy conservation measures acquired and installed to reduce energy consumption or allow the use of alternative energy sources for schools and hospitals. Such measures may include but not necessarily be limited to—

(a) Insulation for bare pipes, water heaters, hot water storage tanks, chilled water piping, ductwork and other uninsulated mechanical equipment carrying an above or below ambient temperature fluid, which resists heat transfer from the mechanical systems to the surrounding space;

(b) Roof insulation, using new or additional material (applied, sprayed or rigid) which resists heat transfer through the roof;

(c) Ceiling insulation, installed either above or below the ceiling to resist heat transfer through the ceiling;

(d) Wall insulation, using a rigid or sprayed material, installed to resist heat transfer through the wall;

(e) Floor insulation, using a material which resists heat transfer through the floor between the first level heated space and the unheated space beneath it;

(f) Storm windows, which are an additional window, normally installed to the exterior, but which may be installed to the interior of the primary or ordinary window, to increase resistance to heat transfer, and to decrease air infiltration through the window assembly;

(g) Storm doors, which are an extra door installed to the exterior of an exterior door, but also may be installed as part of the entrance vestibule, to decrease heat transfer and air infiltration through the building entrance ways;

(h) Multiglazed window or door systems, which are a single glass unit consisting of multiple layers of glass separated by hermetically sealed air spaces, which provide greater resistance to heat transfer;

(i) Reduction in glass area through use of bricking, insulated paneling, etc., which decreases heat transfer and air infiltration;

(j) Heat absorbing or heat reflective glazed and coated window and door systems, which are specially treated, coated or laminated glazing systems to absorb or reflect solar heat;

(k) Caulking, which is nonrigid material placed in joints of buildings or window or door systems to prevent the passage of air and moisture through the building envelope;

(l) Weatherstripping, which consists of strips of flexible material placed over, under, or in movable joints of windows and doors to reduce the passage of air and moisture;

(m) Automatic energy control systems, such as mixed air temperature reset devices; cooling coil discharge temperature reset devices; hot deck temperature reset devices; economizer controls; enthalpy controls; night setback thermostats; time clocks to start/stop selected HVAC systems, refrigeration equipment, boilers, chillers, hot water generators, plus associated pumps and fans, thermostatic radiator valves, and central computer control systems, which adjust the supply of heating, cooling, and ventilation to meet space conditioning requirements;

(n) Equipment required to operate or convert to variable energy supply, including—

(1) Hydraulic ventilating systems which are adjusted by the automatic energy control systems to turnoff or vary the consumption of energy systems to deliver no more energy than required at any operating point;

(2) Constant volume air distribution systems altered to variable air flow systems by the addition of variable air flow boxes, fan volume control dampers and related climatic controls; or

(3) Water spray coils for adiabatic cooling during optimum weather conditions;

(o) Passive solar systems (those using gravity, heat absorption or reflection, evaporation, etc.) which collect and transfer energy (including south facing windows, trombe walls, and awnings) without the use of mechanical devices;

(p) Solar space heating or cooling systems, which consist of solar collectors, and associated thermal storage, heat exchangers, pumps/fans, controls and piping/ducting;

(q) Solar electric generating systems, which consist of photovoltaic solar collectors and associated electric storage and controls, or concentrating solar collectors and generating equipment, or wind energy conversion systems;

(r) Solar domestic hot water heating systems, which consist of solar collectors, and associated thermal storage, heat exchangers, pumps, controls, and piping for thermal demand, such as domestic hot water, laundry, kitchen, and boiler water make-up;

(s) Furnace or utility plant modifications, which consist of the installation of equipment to achieve reduction in fuel consumption, or to convert to renewable energy sources or coal, including—

(1) Replacement burners, furnaces, boilers, or any combination thereof, which are designed to substantially reduce the amount of fuel consumed as a result of increased combustion efficiency;

(2) Electrical or mechanical furnace ignition systems which eliminate continuous energy use;

(3) Devices for modifying flue openings, such as dampers and heat exchangers, which increase the efficiency of the total heating systems;

(4) Automatic combustion control systems, which improve burner operating performance to reduce consumption of fuel during full and part load operation;

(5) Devices, such as turbulators and flow restrictors, for modifying boiler capacity and hot water units to reduce oversized equipment to a proper size (after the other building modifications), which increase the full and part load efficiency of the primary equipment; and

(6) Equipment required to convert existing oil- and gas-fired boiler installations to alternative energy sources, including coal;

(t) Lighting fixtures modifications and associated rewiring, which reduce the watts per square foot level of illumination through use of such measures as high frequency ballasts, phantom tubes, lamp sources of higher efficiency, improved luminaires, use of non-uniform task/ambient lighting design, while maintaining lighting levels for task performance. Lighting fixtures modifications that increase the general illumination level of a facility shall not be eligible for funding unless the increase is necessary to conform to any applicable State or local building code or unless such increase is approved by the Secretary;

(u) Energy recovery systems which reduce energy used in heating and cooling systems by—

(1) Direct recycling of uncontaminated air, which has been conditioned, to an adjacent area for heating, cooling or ventilation make-up;

(2) Exhaust air heat recovery to pre-heat outside air supply with heat recovery devices such as rotary air wheels, plate heat exchangers, non-regenerative heat-pipe devices, and run-around loop systems; or

(3) Purifying with charcoal or other mediums and recycling exhaust air from toilet areas, dining rooms, and lounges, and other building areas;

(v) Cogeneration systems which produce steam, heat, or other forms of energy as well as electricity for use

primarily within a building or complex of buildings and which meet such fuel efficiency requirements as may be prescribed or approved by DOE and which may be new heat recovery equipment added to existing electrical generation systems;

(w) Any other measures as a grant applicant shows will save a substantial amount of energy or as are identified in an energy audit prescribed pursuant to section 365(e)(2) of the Energy Policy and Conservation Act. Such measures must be specifically identified in any grant application, including a complete description of the measure together with calculations and other technical data supporting the projected cost and energy savings.

Subpart E—Applicant Responsibilities

§ 455.60 Grant application submittals.

(a) Each eligible State, school, hospital, unit of local government and public care institution desiring to receive financial assistance for costs of technical assistance programs, or, in the case of an eligible State, school or hospital, for costs of energy conservation measures, relating to a building of buildings owned by such entity shall file an application in accordance with the provisions of this Subpart and the approved State Plan of the State in which such building is located. The application, which may be amended in accordance with applicable State procedure at any time to the State's final determination thereon, shall be filed with the State energy agency designated in the applicable approved State Plan.

(b) An application for financial assistance for costs of technical assistance programs shall include—

(1) The applicant's name and address;

(2) A written statement certifying that the applicant is eligible under § 455.41;

(3) Identification of each building for which financial assistance is requested, to include information required by 10 CFR in § 455.42(a)(1) through (5);

(4) A statement of current energy use by building (Btu/sq.ft./yr.);

(5) Estimate of energy savings, by building (Btu/sq.ft./yr.), resulting from implementation of operations and maintenance procedures identified in the energy audit;

(6) A project budget, by building, which identifies the sources and amounts of non-Federal funds, including in-kind contributions (limited to the goods and services described in OMB Circular A-102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments", which are directly related to the project and do not include funds derived from revenue sharing or other

Federal sources), to be used to meet the costsharing requirements described in Subpart G; and

(7) A brief description, by building, of the proposed technical assistance program, scheduling and milestone dates for achieving the overall technical assistance program objective and associated estimated costs;

(8) Schedules and milestone dates for the conduct and completion of technical assistance programs for each building.

(c) Applications from a State, school or hospital for financial assistance for costs of energy conservation measures shall include—

(1) The applicant's name and address;

(2) A written statement certifying that the applicant is eligible under § 455.51;

(3) Identification of each building for which financial assistance is requested, to include information required by 10 CFR 450.42(a) (1) through (5);

(4) A written statement that cost effective operation and maintenance procedures identified as a result of a technical assistance program have been implemented in each building by the applicant;

(5) A project budget, by building, which shall include identification of the sources and amounts of non-Federal funds to be used to meet the cost-sharing requirements described in Subpart G of this part;

(6) A statement of the applicant's ability to provide required matching non-Federal funds, including in-kind contributions (limited to the goods and services described in OMB Circular A-102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments", which are directly related to the project and do not include funds derived from revenue sharing or other Federal sources), and the proposed sources and method of financing;

(7) Schedules and milestone dates for the completion of the acquisition and installation of energy conservation measures for each building;

(8) A listing, by building, of the specific energy conservation measures proposed for funding, indicating the cost of each measure, the estimated energy saving of each measure, the projected simple payback period for each measure, computed in accordance with the methodology described in § 455.42(b)(4) (iii) and (iv), and the average simple payback period of all measures proposed for the building. The average simple payback period shall be determined by dividing the total cost of all measures proposed by the total projected saving (from energy savings only) accruing from all measures proposed;

(9) A technical assistance program report for each building, the program for which was conducted subsequent to the most recent construction, configuration or utilization change to the building;

(10) If the application covers any of the measures set forth in § 455.52 (p), (q), (r), (s), (u), and (v) above, sufficient data for DOE to evaluate the environmental impacts of those measures. For any other measure set forth in § 455.52 if the applicant is aware of any adverse impacts which may arise from the adoption of such measures, the applicant shall provide an analysis of such impacts with the application.

(d) Financial assistance for units of local government and public care institutions will be provided only for buildings which are owned and primarily occupied by offices or agencies of a unit of local government or public care institution and which are not intended for seasonal use and not utilized primarily as a school or hospital.

(e) Financial assistance provided to a school which is a local education agency as defined in § 455.2 must not be used for acquisition or installation of any energy conservation measure in any building of such agency which is used principally for administration, or technical assistance in connection with any such undertaking for such a building.

(f) Financial assistance will not be provided for technical assistance programs or energy conservation measures commenced prior to November 9, 1978.

§ 455.61 Applicant certifications.

(a) Applications for financial assistance for technical assistance programs and energy conservation measures shall include a signed statement that the applicant—

(1) Has satisfied the requirements set forth in § 455.60;

(2) Will expend granted funds for the purposes stated in the application and in compliance with the requirements of this Part and the applicable approved State Plan;

(3) Has implemented all cost-effective operation and maintenance procedures recommended as a result of the energy audit and, for applications for energy conservation measures, those recommended in the report obtained under a technical assistance program;

(4) Will obtain from the technical assistance auditor, before the auditor performs any work in connection with a technical assistance program or energy conservation measure, a signed statement certifying that the technical assistance auditor has no conflicting financial interests and is otherwise qualified to perform the duties of a technical assistance auditor in accordance with the standards and criteria

established in the approved State Plan; and

(5) Will not enter into any contract relating to an energy conservation measure (except technical assistance), which requires or may require expenditure of more than \$5,000 (excluding technical assistance costs), that does not conform to the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a-5) pertaining to minimum wages for construction in the applicant's locality.

§ 455.62 Grant applications for State administrative expenses.

(a) Each State desiring to receive a grant for State administrative expenses shall file an application therefor in accordance with the provisions of this section. The application shall be submitted to DOE at the time the State forwards approved grant applications for technical assistance programs and energy conservation measures.

(b) Applications for financial assistance for State administrative expenses shall include—

(1) The name and address of the person designated by the State to be responsible for the State's functions under this Part;

(2) A projected itemized budget for State administrative expenses listed in § 455.83(b) and limited thereunder;

(3) A statement of the State's ability to provide required matching non-Federal funds, including in-kind contributions (limited to the goods and services described in OMB Circular A-102 which are directly related to the project and do not include funds derived from revenue sharing or other Federal sources), and the proposed method of financing.

§ 455.63 Grantee records and reports.

(a) Each State, school, hospital, unit of local government and public care institution which receives a grant for technical assistance programs, energy conservation measures or State administrative expenses shall keep all the records required by § 455.4.

(b) In January and June of each year each grantee shall, until the grantee's program has been concluded, submit a report to the State which shall detail and discuss—

(1) Activities accomplished, those not accomplished, status of in-progress activities, problems encountered, and remedial actions, if any, planned;

(2) Cost-effective operation and maintenance procedures and energy conservation measures studied, recommended, or installed, with accompanying projected or actual costs, energy and cost savings, payback periods and specifying any material variances from those projected in the original applications; and

(3) Financial status reports completed in accordance with OMB circulars listed in § 455.3. Financial status reports must be submitted simultaneously to both the State and DOE.

(c) Within 90 days following conclusion of a technical assistance program or completion of an energy conservation measure by a grantee, the grantee shall submit a final report to the State and a summary thereof to DOE which shall detail and discuss, as applicable—

(1) A summary of all work accomplished;

(2) Problems encountered and recommended solutions;

(3) Results achieved under the program;

(4) Final financial reports completed in accordance with OMB circulars listed in § 455.3;

(5) For a completed technical assistance program—

(i) A complete inventory and description of major energy-using equipment and systems;

(ii) Calculated energy consumption for the building (assuming the implementation of all cost-effective operations and maintenance procedures);

(iii) Differences between the calculated energy consumption and the actual energy consumption of the building;

(iv) Recommended changes in operation and maintenance procedures indicating the energy and cost savings anticipated;

(v) Recommended energy conservation measures indicating the energy cost savings anticipated, and the cost of acquiring and installing the measures (with simple payback periods) in order of ascending payback period, that is, ranked in order with the lowest payback first; and

(vi) A recommended implementation plan, grouped into categories of energy saving operation and maintenance procedures, and energy conservation measures. Energy conservation measures will be presented in order of ascending payback period;

(6) For completed energy conservation measures, (1) through (4) above, and

(i) A complete inventory and description of major energy-using equipment and systems;

(ii) A complete inventory and description of modifications to and construction and installation of major energy-using equipment and systems;

(iii) A final projected simple payback period, computed in accordance with § 455.42(b)(4)(iv), for each building specifying and utilizing the actual costs for each measure and all the measures, taken as a whole; and

(iv) Certification by the technical assistance auditor that the modifications (material, equipment and installation) made conform in all respects to the

report on the technical assistance program and the approved application.

Subpart F—State Responsibilities

§ 455.70 State evaluation of grant applications.

(a) Each application received by a State shall be reviewed and evaluated to determine whether it complies with Subparts C, D and E of this part, any additional requirements of the approved State Plan State environmental laws, and other applicable laws and regulations.

(b) The State will forward each application for a school or hospital to the State school facilities agency or the State hospital facilities agency, as the case may be, for review and certification that such application is consistent with related State programs for educational facilities, and State health plans under sections 1524(c)(2) and 1603 of the Public Health Service Act, and has been coordinated through the review mechanisms under section 1523 of the Public Health Service Act and section 1122 of the Social Security Act. No application from a school or hospital shall be approved until such certification has been issued.

§ 455.71 State ranking of grant applications.

(a) All applications received by the State will be ranked by the State on an individual building by building basis. In the case of energy conservation measures, a complex may be ranked as a single building if the application proposes a single energy conservation measure which directly involves all of the buildings in the complex. States shall rank buildings in descending priority, based upon the following factors—

(1) The average simple payback period of all energy conservation measures proposed for the building;

(2) The type(s) of energy source to which conversion is proposed (with weighting adjustments directly proportional to the ratio of the cost of the conversion measure to the total cost of all measures proposed for a given building, including in descending priority)—

(i) Renewable;

(ii) Coal;

(iii) Electricity (as primary, based-load fuel)—

(A) Nuclear fired;

(B) Coal fired;

(3) The type(s) of primary energy to be saved (with weighting adjustments directly proportional to the ratio of the cost of the energy saving measure to the total cost of the energy saving measure to the total cost of all measures proposed for a given building), including in descending priority—

(i) Natural gas;

(ii) Oil;
 (iii) Electricity (as primary, base-load fuel)—

- (A) Natural gas fired;
 (B) Oil fired;
 (C) Coal fired;
 (D) Nuclear fired;
 (4) Remaining useful life of building;
 (5) Climate within the State;
 (6) Fuel prices or fuel availability within the State;
 (7) Other factors as determined by the State.

(b) Each State shall develop separate groupings for ranking all buildings covered by applications, in compliance with the State Plan, for—

- (1) Technical assistance programs for units of local government and public care institutions;
 (2) Technical assistance programs for schools and hospitals; and
 (3) Energy conservation measures for schools and hospitals.

(c) Within each grouping, a State shall set forth the ranking of each building, the amount of financial assistance requested for each such building. A State shall also indicate which of the buildings in the ranking are approved by the State for financial assistance, and which of those approved, the State recommends for funding, within the limits of the State's allocations.

(d) Within each grouping of ranked of buildings, a State shall assure that—

(1) Schools receive not more than 70 percent of the total funds allocated for schools and hospitals to the State in the grant program cycle for schools and hospitals;

(2) Hospitals receive not more than 70 percent of the total funds allocated for schools and hospitals to the State in the grant program cycle for schools and hospitals; and

(3) School and hospital applicants for Federal funding in excess of 50 percent on the basis of severe hardship under § 455.71 receive in the aggregate no more than 10 percent of the funds allocated to the State in the grant program cycle for schools and hospitals.

(e) To the extent provided in § 455.82 (c), additional financial assistance with be available for schools and hospitals experiencing severe hardship as determined in accordance with this part, and funding therefor will be taken from the funds reserved for grants up to 90 percent of the total costs of the technical assistance program and/or energy conservation measures.

(f) Applications for Federal funding in excess of 50 percent based on claims of severe hardships shall be given an additional evaluation and ranking, and identified within groupings of building rankings. The amount of the proposed

Federal share in excess of 50 percent for each building shall be specified within each grouping, and the sum of the all the grants in excess of the 50 percent requested for buildings covered by severe hardship grant applications shall be provided separately.

(g) The criteria for the evaluation and ranking of severe hardship applications are list below in the descending order in which weights for each factor are to be applied by the State—

- (1) Inability to provide the 50 percent non-Federal program costs;
 (2) Fuel costs and availability which differ significantly from the average within the State; and
 (3) Climatological conditions which differ significantly from the average conditions within the State.

(h) In determining the maximum Federal share for an institution in a given locality that is in a class of severe hardship, States shall use the U.S. Department of Commerce publication, *Qualified Areas Under the Public Works and Economic Development Act of 1965, as amended*. Institutions in those locations listed in the publication may be eligible for Federal funding for this program at the "Maximum Grant Rate" assigned to that location in such publication, plus 10 percent.

§ 455.72 Forwarding of applications.

Each State shall, once each grant program cycle, within the period specified by DOE and published in the FEDERAL REGISTER, forward to DOE those applications that the State recommends for financial assistance, ranked pursuant to the provisions of § 455.71.

§ 455.73 State Duties.

(a) Each State shall be responsible for—

(1) Notifying each applicant, within 60 days following receipt by the State of the application or the last amendment thereof whether its application has been approved and recommended for funding;

(2) Direct program oversight, monitoring and financial auditing of the activities for which grants are awarded to its institutions to insure compliance with all legal requirements. States shall immediately notify the Secretary of any non-compliance or indication thereof.

(b) Each State shall submit a report to DOE—

(1) By the close of the sixth month following State Plan approval by DOE, and in each March thereafter for the duration of the grant program, describing generally—

- (i) The operations of the program;
 (ii) Problems encountered and recommended solutions;

(iii) Program related financial expenditures by the grantees and the State;

(2) By the close of the twelfth month following State Plan approval by DOE and in each August thereafter for the duration of the grant program, giving—

(i) A narrative on the program, including objectives accomplished, problems encountered and recommended solutions;

(ii) A detailed report on program related financial expenditures by all grantees and by the State; and

(iii) A summary of the most recent reports received by the State pursuant to § 455.63.

Subpart G—Grant Awards

§ 455.80 Approval of grant applications

(a) The Secretary shall review and approve applications submitted by a State in accordance with § 455.72 and in accordance with the State's ranking of buildings contained in such applications if the Secretary determines that the applications meet the objectives of the Act, and comply with the applicable State Plan and the requirements of this Part. The Secretary may disapprove all or any portion of an application to the extent that funds are not available to carry out a program or project (or portions thereof) contained in the application, or for such other reasons as the Secretary may deem appropriate.

(b) The Secretary shall notify a State and the applicant of the final approval or disapproval of an application at the earliest practicable date after the Secretary's receipt of the application, and, in the event of disapproval, shall include a statement of the reasons therefor. An application which has been disapproved may be amended and resubmitted within the same grant program cycle with the consent of the Secretary.

(c) The Secretary may also, after reasonable notice and hearing, terminate financial assistance under a previously approved application if the Secretary determines the applicant has failed to comply substantially with the terms and conditions set forth in the application and this subpart.

§ 455.81 Grant Awards For Units Of Local Government and Public Care Institutions.

(a) The Secretary may make grants to States, units of local governments and public care institutions of up to 50 percent of the costs of performing technical assistance programs for buildings covered by an application approved in accordance with § 455.80.

(b) Total grant awards within any State to units of local government and public care institutions are limited to

the funds allocated to each State in accordance with Subpart I of this part.

(c) No grant awarded under this section for a technical assistance program shall include funding for the purchase of an item of equipment having an acquisition cost in excess of \$500.

§ 455.82 Grant Awards For Schools and Hospitals.

(a) The Secretary may make grants to States, schools and hospitals of up to 50 percent of the costs of performing technical assistance programs for buildings covered by an application approved in accordance with § 455.80, subject to the following—

(1) Total grant awards within any State to schools and hospitals are limited to the funds allocated to each State in accordance with Subpart I of this part;

(2) Grant awards for technical assistance programs in any State within any grant program cycle shall not exceed—

(i) 30 percent of the amount allocated to a given State from the 1978 fiscal year appropriation for technical assistance programs and energy conservation measures for schools and hospitals;

(ii) 15 percent of the amount allocated to a given State from the 1979 fiscal year appropriation for technical assistance programs and energy conservation measures for schools and hospitals; or

(iii) 5 percent of the 1980 fiscal year appropriation for technical assistance programs and energy conservation measures for schools and hospitals.

(b) The Secretary may make grants to States, schools and hospitals of up to 50 percent of the costs of acquiring and installing energy conservation measures for buildings covered by an application approved in accordance with § 455.80. Total grant awards within any State are limited to the funds allocated to each State in accordance with Subpart I of this part.

(c) The Secretary may award up to 10 percent of the total amount allocated to a State for technical assistance programs and energy conservation measures, in a given grant program cycle, to cover more than 50 percent but not to exceed 90 percent of the cost of a technical assistance program or an energy conservation measure for applicants in a class of severe hardship, as ascertained in accordance with the State Plan.

(d) The Secretary shall not award more than 70 percent of the total amount allocated to a State for technical assistance programs and energy conservation measures in a given grant program cycle to either schools or hospitals in that State.

(e) No grant awarded under this section for a technical assistance program shall include funding for the purchase

of an item of equipment having an acquisition cost in excess of \$500.

§ 455.83 Grant Awards For State Administrative Expenses.

(a) Concurrently with grant awards for approved applications for institutions in a given State, the Secretary may make a grant to that State in an amount not exceeding 5 percent of the total amount of such awards for the purpose of defraying State expenses in the administration of technical assistance programs and energy conservation measures within that State. Grants for such purposes may be made for up to 50 percent of a State's projected administrative expenses, as approved by the Secretary.

(b) A State's administrative expenses shall be limited to those directly related to administration of technical assistance programs and energy conservation measures, including costs associated with—

(i) Personnel, whose time is expended directly in support of such administration;

(ii) Supplies, expended directly in support of such administration;

(iii) Equipment purchased or acquired solely for, and utilized directly in support of such administration, provided that no items of equipment costing more than \$200 shall be acquired without the express consent of DOE;

(iv) Printing, directly in support of such administration; and

(v) Travel, directly related to such administration.

Subpart H—State Plan Development and Approval

§ 455.90 Contents of State Plan.

Each State shall develop a State plan for technical assistance programs and energy conservation measures. The State Plan shall be reviewed and approved by the Governor of the State or the State energy agency and shall include—

(a) A statement setting forth the procedures by which the views of eligible institutions or State-wide organizations representing such institutions, or both, were solicited and considered during development of the State Plan;

(b) A description of the preliminary energy audit results (described in Subpart B of this part) which have been conducted in the State including, but not limited to—

(1) In the case of a State which has completed preliminary energy audits of all potentially eligible buildings, a summary of the data gathered pursuant to § 450.42 for all such buildings;

(2) In the case of a State which has completed preliminary energy audits of a sample of all potentially eligible buildings within the State—

(i) Reasonably accurate estimates of the preliminary energy audit data required by § 450.42 for all potentially eligible buildings within the State; and

(ii) A plan which describes further actions to be taken in order to obtain the required information for all potentially eligible buildings;

(3) Estimates of the energy savings, by class of building, expected to result from modification of maintenance and operating procedures and installation of energy conservation measures in such buildings;

(4) Recommendations as to the number and estimated cost of technical assistance programs and types and estimated costs of energy conservation measures for each grant program cycle;

(c) A description of the policies and procedures to be used by the State for evaluating grant applications;

(d) A description of the policies and procedures that the State will follow to insure that funds will be allocated equitably among eligible applicants within the State, including procedures to insure that funds will not be allocated on the basis of size or type of institution but rather on the basis of relative need taking into account such factors as cost, energy consumption and energy savings. Such policies and procedures shall be in accordance with § 455.71;

(e) A description of the policies and procedures that the States will follow in the identification, ranking and allocation of funds to severe hardship applicants which are eligible to receive financial assistance in excess of the otherwise applicable 50 percent limit. Such policies and procedures shall be in accordance with § 455.71(g);

(f) A Statement setting forth the extent to which, and by which methods, the State will encourage utilization of solar space heating, cooling and electric systems and solar water heating systems;

(g) A description of the policies and procedures to assure that all financial assistance under this part will be expended in compliance with the requirements of the State Plan, in compliance with the requirements of this part, and in coordination with all other State and Federal energy conservation programs;

(h) A description of the policies and procedures to insure implementation of cost-effective energy conserving maintenance and operating procedures in those buildings for which financial assistance is awarded under this part;

(i) A description of the policies and procedures designed to insure that financial assistance under this part will be used to supplement, and not to supplant, State, local or other funds;

(j) A description of the policies and procedures for establishment of, and

adherence to, milestones for accomplishment of technical assistance programs and energy conservation measures receiving financial assistance under this part;

(k) A description of the policies and procedures for State management, financial audit and evaluation of technical assistance programs and energy conservation measures receiving financial assistance under this part;

(l) A description of the program of the State for establishing and insuring compliance with qualifications for technical assistance auditors. Such policies shall require at a minimum that a technical assistance auditor have experience in energy conservation and be a registered professional engineer licensed under the regulatory authority of the State, or be an architect-engineer team the members of which are licensed under the regulatory authority of the State, and that a technical assistance auditor be free from financial interests which may conflict with the proper performance of his or her duties;

(m) A description of the policies and procedures for apportionment of funds among eligible institutions within the State. As a minimum such policies and procedures shall assure a separate priority ranking for each building pursuant to the provisions of § 455.71 covered by an application approved pursuant to the provisions of § 455.70 for—

(1) Technical assistance programs for units of local government and public care institutions;

(2) Technical assistance programs for schools and hospitals; and

(3) Energy conservation measures for schools and hospitals.

§ 455.91 Submission and Approval of State Plans.

(a) Proposed State Plans shall be submitted to the Secretary within 90 days of the effective date of this Subpart unless the Secretary, upon request and for good cause shown, grants an extension of time.

(b) The Secretary shall, within 60 days of receipt of a proposed State Plan, review each Plan and, if it is found to conform to the requirements of this part, approve the State Plan. If the Secretary does not disapprove a State Plan within the 60-day period, the Secretary will be deemed to have approved the State Plan.

(c) If the Secretary determines that a proposed State Plans fails to comply

with the requirements of this part, the Secretary shall return the Plan to the State with a statement setting forth the reasons for disapproval. With the consent of the Secretary, the State may submit a new or amended Plan at any time.

§ 455.92 State Plans Developed by the Secretary.

(a) If a State Plan has not been approved by February 7, 1981, or within 90 days after completion of the preliminary energy audits, whichever is later, the Secretary may develop and implement a State Plan on behalf of the schools and hospitals in the State.

(b) Subsequent to the development of a State Plan by the Secretary, the State may submit its own State Plan and the Secretary shall approve or disapprove such plan within 60 days after receipt by the Secretary. If the proposed plan meets the requirements of this part, and is not inconsistent with any plan developed and implemented by the Secretary, the Secretary shall approve the State Plan which shall automatically replace the Plan developed by the Secretary.

Subpart I—Allocation of Appropriations Among the States.

§ 455.100 Allocation of Funds.

The Secretary will allocate available funds for the purpose of awarding grants to States, schools, hospitals, units of local government and public care institutions to implement grant programs for schools and hospitals and buildings owned by local government and public care institutions in accordance with this subpart.

§ 455.101 Allocation Formulas.

(a) Financial assistance for conducting technical assistance programs for units of local government and public care institutions shall be allocated among the States by multiplying the sum available by the allocation factor set forth in paragraph (c) of this section.

(b) Financial assistance for conducting technical assistance programs and acquiring and installing energy conservation measures for schools and hospitals shall be allocated among the States by multiplying the sum available by the allocation factor set forth in paragraph (c) of this section.

(c) The allocation factor (K) shall be determined by the formula—

$$K = \frac{0.07}{n} + 0.1 \frac{(Sfc)}{(Nfc)} + 0.83 \left(\frac{(SP)}{(NP)} \frac{(SC)}{(NC)} \right)$$

where, as determined by DOE—

(1) S_{fc} is the average retail cost per million Btu's of energy consumed within the

region in which the State is located, as reflected in the 1985, Series C projections contained in DOE's Energy Infor-

mation Administration Administrator's Annual Report, 1978;

(2) N_c is the national average retail cost per million Btu's of energy consumed, as reflected in the 1985, Series C projections contained in DOE's Energy Information Administration Administrator's Annual Report 1978;

(3) n is the total number of eligible States;

(4) SP is the population of the State, as determined from 1976 census estimates, "Current Population Reports", Series P-25, number 603;

(5) NP is 217,820,000, the total population of all eligible States;

(6) SC is the sum of the State's heating and cooling degree days, as determined from National Oceanic and Atmospheric Administration data for the thirty year period, 1941 through 1970;

(7) NC is 349,249, the sum of all eligible States' heating and cooling degree days.

(d) Except for the District of Columbia, Puerto Rico, Guam, American Samoa and the Virgin Islands, no allocation available to any State may be less than 0.5 percent nor more than 10 percent of the total amount appropriated.

(e) Ten percent of each State's allocation each year for schools and hospitals shall be apportioned by the State for additional financial assistance, in excess of the 50 percent Federal share, up to 90 percent of the costs of technical assistance programs and energy conservation measures for those schools and hospitals determined to be in a class of severe hardship. Such determinations shall be made in accordance with § 455.71(g).

(f) By notice published in the FEDERAL REGISTER, the Secretary shall notify each State of the total amount allocated for grants within the State for any grant program cycle. For purposes of this regulation, grant "program cycle" is a period of time to be specified by DOE, which is related to the fiscal year for which grant funds are appropriated during which one complete cycle of grant activity occurs, including DOE allocation of appropriations to the States, application review and approval, and grant award.

(g) By notice published in the FEDERAL REGISTER, the Secretary will notify each State of the period for which funds allocated for a grant program cycle will be reserved for grants within the State.

§ 455.102 Reallocation of Funds.

(a) If a State Plan has not been approved and implemented by any State by the close of the period for which allocated funds are available as set forth in the notice(s) issued by the Secretary pursuant to § 455.101(g) funds allocated to that State for technical assistance and energy conservation measures will be reallocated among all States for the next grant program cycle, if applicable.

(b) If a State Plan has not been approved by February 7, 1981, or within ninety days after completion of the preliminary energy audits, whichever is later, the Secretary may develop and implement a State Plan on behalf of the schools and hospitals within the State. If the Secretary does not develop a State Plan for a State, the funds reserved for that grant program cycle for schools and hospitals in that State will be reallocated for the next grant program cycle among all States for schools and hospitals.

(c) If a State does not forward a sufficient number of grant applications, which are approved by the Secretary, to award all the funds allocated for the State in that grant program cycle, the Secretary shall reallocate the remaining funds among all States for the next grant program cycle.

(d) If a State does not forward a sufficient number of grant applications, which are approved by the Secretary under the severe hardship provisions set forth in § 455.71(g), to award all of the funds allocated to the State for that purpose in that grant program cycle, the Secretary shall reallocate the remaining hardship funds among all States for the next grant program cycle.

§ 455.103 Reallocation of Preliminary Energy Audit/Energy Audit Funds.

(a) If a State has utilized Federal assistance to cover in excess of 50 percent of the costs for conducting preliminary energy audits and energy audits, the amount of such excess over 50 percent shall be subtracted from that State's allocation for technical assistance and energy conservation projects and reallocated among all other States for the next grant program cycle according to the formula set forth in § 455.101.

(b) To the extent that funds allocated to a State for preliminary energy audits and energy audits are not needed because all potentially eligible buildings have had an energy audit or its equivalent conducted, such funds may be made available for technical assistance or energy conservation measures. DOE shall, upon request by the State, redistribute funds not needed for preliminary energy audits and energy audits to the State allocation for technical assistance or energy conservation measures, as appropriate and such funds shall be in addition to those which would otherwise be available for such purposes.

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