PART 440—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

§ 440.1 Purpose and scope.

This part implements a weatherization assistance program to increase the energy efficiency of dwellings owned or occupied by low-income persons or to provide such persons renewable energy systems or technologies, reduce their total residential expenditures, and improve their health and safety, especially low-income persons who are particularly vulnerable such as the elderly, persons with disabilities, families with children, high residential energy users, and households with high energy burden.

[65 FR 77217, Dec. 8, 2000, as amended at 71 FR 35778, June 22, 2006]

§ 440.2 Administration of grants.

Grant awards under this part shall comply with applicable law including, without limitation, the requirements of:

(a) Executive Order 12372 entitled “Intergovernmental Review of Federal Programs”, 48 FR 3130, and the DOE Regulation implementing this Executive Order entitled “Intergovernmental Review of Department of Energy Programs and Activities” (10 CFR part 1005);

(b) Office of Management and Budget Circular A-97, entitled “Rules and Regulations Permitting Federal Agencies to Provide Specialized or Technical Services to State and Local Units of Government under Title III of the Inter-Governmental Coordination Act of 1968.”

(c) Unless in conflict with provisions of this part, the DOE Financial Assistance Rule (10 CFR part 600); and

(d) Such other procedures applicable to this part as DOE may from time to time prescribe for the administration of financial assistance.

[49 FR 3629, Jan. 27, 1984, as amended at 75 FR 11422, Mar. 11, 2010]

§ 440.3 Definitions.

As used in this part:


Assistant Secretary means the Assistant Secretary for Conservation and Renewable Energy or official to whom the Assistant Secretary’s functions may be redelegated by the Secretary.

Base Allocation means the fixed amount of funds for each State as set forth in §440.10(b)(1).

Base temperature means the temperature used to compute heating and cooling degree days. The average daily outdoor temperature is subtracted from the base temperature to compute heating degree days, and the base temperature is subtracted from the average daily outdoor temperature to compute cooling degree days.

Biomass means any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees, wood and wood wastes and residues, plants (including aquatic plants), grasses, residues, fibers, and animal wastes, municipal wastes, and other waste materials.

CAA means a Community Action Agency.

Capital-Intensive furnace or cooling efficiency modifications means those
major heating and cooling modifications which require a substantial amount of funds, including replacement and major repairs, but excluding such items as tune-ups, minor repairs, and filters.

Children means dependents not exceeding 19 years or a lesser age set forth in the State plan.

Community Action Agency means a private corporation or public agency established pursuant to the Economic Opportunity Act of 1964, Pub. L. 88–452, which is authorized to administer funds received from Federal, State, local, or private funding entities to assess, design, operate, finance, and oversee antipoverty programs.

Cooling Degree Days means a population-weighted annual average of the climatological cooling degree days for each weather station within a State, as determined by DOE.

Deputy Assistant Secretary means the Deputy Assistant Secretary for Technical and Financial Assistance or any official to whom the Deputy Assistant Secretary’s functions may be redelegated by the Assistant Secretary.

DOE means the Department of Energy.

Dwelling Unit means a house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.

Elderly Person means a person who is 60 years of age or older.

Electric base-load measures means measures which address the energy efficiency and energy usage of lighting and appliances.

Family Unit means all persons living together in a dwelling unit.

Formula Allocation means the amount of funds for each State as calculated based on the formula in §440.10(b)(3).

Formula Share means the percentage of the total formula allocation provided to each State as calculated in §440.10(b)(3).

Governor means the chief executive officer of a State, including the Mayor of the District of Columbia.

Grantee means the State or other entity named in the Notification of Grant Award as the recipient.

Heating Degree Days means a population-weighted seasonal average of the climatological heating degree days for each weather station within a State, as determined by DOE.

High residential energy user means a low-income household whose residential energy expenditures exceed the median level of residential expenditures for all low-income households in the State.

Household with a high energy burden means a low-income household whose residential energy burden (residential expenditures divided by the annual income of that household) exceeds the median level of energy burden for all low-income households in the State.

Incidental Repairs means those repairs necessary for the effective performance or preservation of weatherization materials. Such repairs include, but are not limited to, framing or repairing windows and doors which could not otherwise be caulked or weatherstripped and providing protective materials, such as paint, used to seal materials installed under this program.

Indian Tribe means any tribe, band, nation, or other organized group or community of Native Americans, including any Alaskan native village, or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, Pub. L. 92–203, 85 Stat. 688, which (1) is recognized as eligible for the special programs and services provided by the United States to Native Americans because of their status as Native Americans, or (2) is located on, or in proximity to, a Federal or State reservation or rancheria.

Local Applicant means a CAA or other public or non-profit entity unit of general purpose local government.

Low income means that income in relation to family size which:

(1) At or below 200 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, except that the Secretary may establish a higher level if the Secretary, after consulting with the Secretary of Agriculture and the Secretary of Health and Human Services, determines that such a higher level is necessary to carry out the purposes of this part and is consistent with the eligibility criteria established for the...
§ 440.3

weatherization program under Section 222(a)(12) of the Economic Opportunity Act of 1964;

(2) Is the basis on which cash assistance payments have been paid during the preceding twelve month-period under Titles IV and XVI of the Social Security Act or applicable State or local law; or

(3) If a State elects, is the basis for eligibility for assistance under the Low Income Home Energy Assistance Act of 1981, provided that such basis is at least 200 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.

Native American means a person who is a member of an Indian tribe.

Non-Federal leveraged resources means those benefits identified by State or local agencies to supplement the Federal grant activities and that are made available to or used in conjunction with the DOE Weatherization Assistance Program for the purposes of the Act for use in eligible low-income dwelling units.

Persons with Disabilities means any individual (1) who is a handicapped individual as defined in section 7(6) of the Rehabilitation Act of 1973, (2) who is under a disability as defined in section 1614(a)(3)(A) or 223(d)(1) of the Social Security Act or in section 102(7) of the Developmental Disabilities Services and Facilities Construction Act, or (3) who is receiving benefits under chapter 11 or 15 of title 38, U.S.C.

Program Allocation means the base allocation plus formula allocation for each State.

Relevant Reporting Period means the Federal fiscal year beginning on October 1 and running through September 30 of the following calendar year.

Renewable energy system means a system which when installed in connection with a dwelling—

(1) Transmits or uses solar energy, energy derived from geothermal deposits, energy derived from biomass (or any other form of renewable energy which DOE subsequently specifies through an amendment of this part) for the purpose of heating or cooling such dwelling or providing hot water or electricity for use within such dwelling; or wind energy for nonbusiness residential purposes; and

(2) Which meets the performance and quality standards prescribed in §440.21(c) of this part.

Rental Dwelling Unit means a dwelling unit occupied by a person who pays rent for the use of the dwelling unit.

Residential Energy Expenditures means the average annual cost of purchased residential energy, including the cost of renewable energy resources.

Secretary means the Secretary of the Department of Energy.

Separate Living Quarters means living quarters in which the occupants do not live and eat with any other persons in the structure and which have either direct access from the outside of the building or through a common hall or complete kitchen facilities for the exclusive use of the occupants. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements, and includes shelters for homeless persons.

Shelter means a dwelling unit or units whose principal purpose is to house on a temporary basis individuals who may or may not be related to one another and who are not living in nursing homes, prisons, or similar institutional care facilities.

Single-Family Dwelling Unit means a structure containing no more than one dwelling unit.

Skirting means material used to border the bottom of a dwelling unit to prevent infiltration.

State means each of the States, the District of Columbia, American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, and the Virgin Islands.

Subgrantee means an entity managing a weatherization project which receives a grant of funds awarded under this part from a grantee.

Support Office Director means the Director of the DOE Field Support Office with the responsibility for grant administration or any official to whom that function may be redelegated by the Assistant Secretary.
§ 440.10 Allocation of funds.

(a) DOE shall allocate financial assistance for each State from sums appropriated for any fiscal year, upon annual application.

(b) Based on total program allocations at or above the amount of $309,724,761, DOE shall determine the program allocations for each State from available funds as follows:

(1) Allocate to each State a “Base Allocation” as listed in Table 1.

<table>
<thead>
<tr>
<th>Base Allocation Table</th>
<th>Amount</th>
</tr>
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<tbody>
<tr>
<td>Alabama</td>
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<td>Alaska</td>
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<td>Colorado</td>
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<td>Delaware</td>
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<tr>
<td>Florida</td>
<td>761,000</td>
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<tr>
<td>Puerto Rico</td>
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<tr>
<td>Northern Mariana Islands</td>
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<tr>
<td>Virgin Islands</td>
<td>120,000</td>
</tr>
<tr>
<td>Total</td>
<td>171,858,000</td>
</tr>
</tbody>
</table>

(2) Subtract 171,258,000 from total program allocations.

(3) Calculate each State’s formula share as follows:

(1) Divide the number of “Low Income” households in each State by the number of “Low Income” households in the United States and multiply by 100.
(ii) Divide the number of “Heating Degree Days” for each State by the median “Heating Degree Days” for all States.

(iii) Divide the number of “Cooling Degree Days” for each State by the median “Cooling Degree Days” for all States, then multiply by 0.1.

(iv) Calculate the sum of the two numbers from paragraph (b)(3)(ii) and (iii) of this section.

(v) Divide the residential energy expenditures for each State by the number of households in the State.

(vi) Divide the sum of the residential energy expenditures for the States in each Census division by the sum of the households for the States in that division.

(vii) Divide the quotient from paragraph (b)(3)(v) of this section by the quotient from paragraph (b)(3)(vi) of this section.

(viii) Multiply the quotient from paragraph (b)(3)(vii) of this section for each State by the residential energy expenditures per low-income household for its respective Census division.

(ix) Divide the product from paragraph (b)(3)(viii) of this section for each State by the median of the products of all States.

(x) Multiply the results for paragraph (b)(3)(i), (iv) and (ix) of this section for each State.

(xi) Divide the product in paragraph (b)(3)(x) of this section for each State by the sum of the products in paragraph (b)(3)(x) of this section for all States.

(4) Calculate each State’s program allocation as follows:

(i) Multiply the remaining funds calculated in paragraph (b)(2) of this section by the formula share calculated in paragraph (b)(3)(xi) of this section.

(ii) Add the base allocation from paragraph (b)(1) of this section to the product of paragraph (b)(4)(i) of this section.

(c) Should total program allocations for any fiscal year fall below $209,724,761, then each State’s program allocation shall be reduced from its allocated amount under a total program allocation of $209,724,761 by the same percentage as total program allocations for the fiscal year fall below $209,724,761.

(d) All data sources used in the development of the formula are publicly available. The relevant data is available from the Bureau of the Census, the Department of Energy’s Energy Information Administration and the National Oceanic and Atmospheric Administration.

(e) Should updates to the data used in the formula become available in any fiscal year, these changes would be implemented in the formula in the following program year.

(f) DOE may reduce the program allocation for a State by the amount DOE determines cannot be reasonably expended by a grantee to weatherize dwelling units during the budget period for which financial assistance is to be awarded. In reaching this determination, DOE will consider the amount of unexpended financial assistance currently available to a grantee under this part and the number of dwelling units which remains to be weatherized with the unexpended financial assistance.

(g) DOE may increase the program allocation of a State by the amount DOE determines the grantee can expend to weatherize additional dwelling units during the budget period for which financial assistance is to be awarded.

(h) The Support Office Director shall notify each State of the program allocation for which that State is eligible to apply.

§ 440.11 Native Americans.

(a) Notwithstanding any other provision of this part, the Support Office Director may determine, after taking into account the amount of funds made available to a State to carry out the purposes of this part, that:

(1) The low-income members of an Indian tribe are not receiving benefits under this part equivalent to the assistance provided to other low-income persons in the State under this part and

(2) The low-income members of such tribe would be better served by means of a grant made directly to provide such assistance.

(b) In any State for which the Support Office Director shall have made
the determination referred to in paragraph (a) of this section, the Support Office Director shall reserve from the sums that would otherwise be allocated to the State under this part not less than 100 percent, or more than 150 percent, of an amount which bears the same ratio to the State's allocation for the fiscal year involved as the population of all low-income Native Americans for whom a determination under paragraph (a) of this section has been made bears to the population of all low-income persons in the State.

(c) The Support Office Director shall make the determination prescribed in paragraph (a) of this section in the event a State:

(1) Does not apply within the sixty-day time period prescribed in §440.12(a);

(2) Recommends that direct grants be made for low-income members of an Indian tribe as provided in §440.12(b)(5);

(3) Files an application which DOE determines, in accordance with the procedures in §440.30, not to make adequate provision for the low-income members of an Indian tribe residing in the State; or

(4) Has received grant funds and DOE determines, in accordance with the procedures in §440.30, that the State has failed to implement the procedures required by §440.16(6).

(d) Any sums reserved by the Support Office Director pursuant to paragraph (b) of this section shall be granted to the tribal organization serving the individuals for whom the determination has been made, or where there is no tribal organization, to such other entity as the Support Office Director determines is able to provide adequate weatherization assistance pursuant to this part. Where the Support Office Director intends to make a grant to an organization to perform services benefiting more than one Indian tribe, the approval of each Indian tribe shall be a prerequisite for the issuance of a notice of grant award.

(e) Within 30 days after the Support Office Director has reserved funds pursuant to paragraph (b) of this section, the Support Office Director shall give written notice to the tribal organization or other qualified entity of the amount of funds reserved and its eligibility to apply therefor.

(f) Such tribal organization or other qualified entity shall thereafter be treated as a unit of general purpose local government eligible to apply for funds hereunder, pursuant to the provisions of §440.13.

[49 FR 3629, Jan. 27, 1984, as amended at 58 FR 12529, Mar. 4, 1993]

§440.12 State application.

(a) To be eligible for financial assistance under this part, a State shall submit an application to DOE in conformity with the requirements of this part not later than 60 days after the date of notice to apply is received from the Support Office Director. After receipt of an application for financial assistance or for approval of an amendment to a State plan, the Support Office Director may request the State to submit within a reasonable period of time any revisions necessary to make the application complete or to bring the application into compliance with the requirements of this part. The Support Office Director shall attempt to resolve any dispute over the application informally and to seek voluntary compliance. If a State fails to submit timely appropriate revisions to complete the application, the Support Office Director may reject the application as incomplete in a written decision, including a statement of reasons, which shall be subject to administrative review under §440.30 of this part.

(b) Each application shall include:

(1) The name and address of the State agency or office responsible for administering the program;

(2) A copy of the final State plan prepared after notice and a public hearing in accordance with §440.14(a), except that an application by a local applicant need not include a copy of the final State plan;

(3) The budget for total funds applied for under the Act, which shall include a justification and explanation of any amounts requested for expenditure pursuant to §440.18(d) for State administration;

(4) The total number of dwelling units proposed to be weatherized with grant funds during the budget period for which assistance is to be awarded—

(i) With financial assistance previously obligated under this part, and
(ii) With the program allocation to the State;
(5) A recommendation that a tribal organization be treated as a local applicant eligible to submit an application pursuant to §440.13(b), if such a recommendation is to be made;
(6) A monitoring plan which shall indicate the method used by the State to insure the quality of work and adequate financial management control at the subgrantee level;
(7) A training and technical assistance plan which shall indicate how funds for training and technical assistance will be used; and
(8) Any further information which the Secretary finds necessary to determine whether an application meets the requirements of this part.

(c) On or before 60 days from the date that a timely filed application is complete, the Support Office Director shall decide whether DOE shall approve the application. The Support Office Director may—
(1) Approve the application in whole or in part to the extent that the application conforms to the requirements of this part;
(2) Approve the application in whole or in part subject to special conditions designed to ensure compliance with the requirements of this part; or
(3) Disapprove the application if it does not conform to the requirements of this part.

§ 440.13 Local applications.
(a) The Support Office Director shall give written notice to all local applicants throughout a State of their eligibility to apply for financial assistance under this part in the event:
(1) A State, within which a local applicant is situated, fails to submit an application within 60 days after notice in accordance with §440.12(a) or
(2) The Support Office Director finally disapproves the application of a State, and, under §440.30, either no appeal is filed or the Support Office Director's decision is affirmed.

(b) To be eligible for financial assistance, a local applicant shall submit an application pursuant to §440.12(b) to the Support Office Director within 30 days after receiving the notice referred to in paragraph (a) of this section.
(c) In the event one or more local applicants submits an application for financial assistance to carry out projects in the same geographical area, the Support Office Director shall hold a public hearing with the same procedures that apply under section §440.14(a).
(d) Based on the information provided by a local applicant and developed in any hearing held under paragraph (c) of this section, the Support Office Director shall determine in writing whether to award a grant to carry out one or more weatherization projects.
(e) If there is an adverse decision in whole or in part under paragraph (d) of this section, that decision is subject to administrative review under §440.30 of this part.
(f) If, after a State application has been finally disapproved by DOE and the Support Office Director approves local applications under this section, the Support Office Director may reject a new State application in whole or in part as disruptive and untimely without prejudice to submission of an application for the next program year.

§ 440.14 State plans.
(a) Before submitting to DOE an application, a State must provide at least 10 days notice of a hearing to inform prospective subgrantees, and must conduct one or more public hearings to receive comments on a proposed State plan. The notice for the hearing must specify that copies of the plan are available and state how the public may obtain them. The State must prepare a transcript of the hearings and accept written submission of views and data for the record.
(b) The proposed State plan must:
(1) Identify and describe proposed weatherization projects, including a statement of proposed subgrantees and
§ 440.15 Subgrantees.

(a) The grantee shall ensure that:

(1) Each subgrantee is a CAA or other public or nonprofit entity;

(2) Each subgrantee is selected on the basis of public comment received during a public hearing conducted pursuant to §440.14(a) and other appropriate findings regarding:

(i) The subgrantee’s experience and performance in weatherization or housing renovation activities;

(ii) The subgrantee’s experience in assisting low-income persons in the area to be served; and

(iii) The subgrantee’s capacity to undertake a timely and effective weatherization program.

(3) In selecting a subgrantee, preference is given to any CAA or other public or nonprofit entity which has, or is currently administering, an effective program under this part or under title II of the Economic Opportunity Act of 1964, with program effectiveness evaluated by consideration of factors including, but not necessarily limited to, the following:

(i) The extent to which the past or current program achieved or is achieving weatherization goals in a timely fashion;

(ii) The quality of work performed by the subgrantee;
(iii) The number, qualifications, and experience of the staff members of the subgrantee; and

(iv) The ability of the subgrantee to secure volunteers, training participants, public service employment workers, and other Federal or State training programs.

(b) The grantee shall ensure that the funds received under this part will be allocated to the entities selected in accordance with paragraph (a) of this section, such that funds will be allocated to areas on the basis of the relative need for a weatherization project by low-income persons.

(c) If DOE finds that a subgrantee selected to undertake weatherization activities under this part has failed to comply substantially with the provisions of the Act or this part and should be replaced, such finding shall be treated as a finding under §440.30 for purposes of §440.30.

(d) Any new or additional subgrantee shall be selected at a hearing in accordance with §440.14(a) and upon the basis of the criteria in paragraph (a) of this section.

(e) A State may terminate financial assistance under a subgrant agreement for a grant period only in accordance with established State procedures that provide to the subgrantee appropriate notice of the State’s reasons for termination and afford the subgrantee an adequate opportunity to be heard.

§440.16 Minimum program requirements.

Prior to the expenditure of any grant funds each grantee shall develop, publish, and implement procedures to ensure that:

(a) No dwelling unit may be weatherized without documentation that the dwelling unit is an eligible dwelling unit as provided in §440.22;

(b) Priority is given to identifying and providing weatherization assistance to:

(1) Elderly persons;

(2) Persons with disabilities;

(3) Families with children;

(4) High residential energy users; and

(5) Households with a high energy burden.

(c) Financial assistance provided under this part will be used to supplement, and not supplant, State or local funds, and, to the maximum extent practicable as determined by DOE, to increase the amounts of these funds that would be made available in the absence of Federal funds provided under this part;

(d) To the maximum extent practicable, the grantee will secure the services of volunteers when such personnel are generally available, training participants and public service employment workers, other Federal or State training program workers, to work under the supervision of qualified supervisors and foremen;

(e) To the maximum extent practicable, the use of weatherization assistance shall be coordinated with other Federal, State, local, or privately funded programs in order to improve energy efficiency and to conserve energy;

(f) The low-income members of an Indian tribe shall receive benefits equivalent to the assistance provided to other low-income persons within a State unless the grantee has made the recommendation provided in §440.12(b)(5);

(g) No dwelling unit may be reported to DOE as completed until all weatherization materials have been installed and the subgrantee, or its authorized representative, has performed a final inspection(s) including any mechanical work performed and certified that the work has been completed in a workmanlike manner and in accordance with the priority determined by the audit procedures required by §440.21; and

(h) Subgrantees limit expenditure of funds under this part for installation of materials (other than weatherization materials) to abate energy-related health and safety hazards, to a list of types of such hazards, permissible abatement materials and their costs which is submitted, and updated as necessary at the same time as an annual application under §440.12 of this part and which DOE shall approve if—

(a) Prior to the expenditure of any grant funds, a State policy advisory council, or a State commission or council which serves the same functions as a State policy advisory council, must be established by a State or by the Regional Office Director if a State does not participate in the Program which:

1. Has special qualifications and sensitivity with respect to solving the problems of low-income persons, including the weatherization and energy conservation problems of these persons;

2. Is broadly representative of organizations and agencies, including consumer groups that represent low-income persons, particularly elderly and handicapped low-income persons and low-income Native Americans, in the State or geographical area in question; and

3. Has responsibility for advising the appropriate official or agency administering the allocation of financial assistance in the State or area with respect to the development and implementation of a weatherization assistance program.

(b) Any person employed in any State Weatherization Program may also be a member of an existing commission or council, but must abstain from reviewing and approving activities associated with the DOE Weatherization Assistance Program.

(c) States which opt to utilize an existing commission or council must certify to DOE, as a part of the annual application, of the council’s or commission’s independence in reviewing and approving activities associated with the DOE Weatherization Assistance Program.


§ 440.18 Allowable expenditures.

(a) Except as adjusted, the expenditure of financial assistance provided under this part for labor, weatherization materials, and related matters included in paragraphs (c)(1) through (9) of this section shall not exceed an average of $6,500 per dwelling unit weatherized in the State, except as adjusted in paragraph (c) of this section.

(b) The expenditure of financial assistance provided under this part for labor, weatherization materials, and related matters for a renewable energy system, shall not exceed an average of $3,000 per dwelling unit.

(c) The $6,500 average will be adjusted annually by DOE beginning in calendar year 2010 and the $3,000 average for renewable energy systems will be adjusted annually by DOE beginning in calendar year 2007, by increasing the limitations by an amount equal to:

1. The limitation amount for the previous year, multiplied by

2. The lesser of:

   (i) The percentage increase in the Consumer Price Index (all items, United States city average) for the most recent calendar year completed before the beginning of the year for which the determination is being made, or

   (ii) Three percent.

3. For the purposes of determining the average cost per dwelling limitation, costs for the purchase of vehicles or other certain types of equipment as defined in 10 CFR part 600 may be amortized over the useful life of the vehicle or equipment.

(d) Allowable expenditures under this part include only:

1. The cost of purchase and delivery of weatherization materials;

2. Labor costs, in accordance with § 440.19;

§ 440.19 Labor.

Payments for labor costs under §440.18(c)(2) must consist of:

(a) Payments permitted by the Department of Labor to supplement wages paid to training participants, public service employment workers, or other Federal or State training programs; and

(b) Payments to employ labor or to engage a contractor (particularly a nonprofit organization or a business owned by disadvantaged individuals which performs weatherization services), provided a grantee has determined an adequate number of volunteers, training participants, public service employment workers, or other
Federal or State training programs are not available to weatherize dwelling units for a subgrantee under the supervision of qualified supervisors.

[65 FR 77218, Dec. 8, 2000]

§ 440.20 Low-cost/no-cost weatherization activities.

(a) An eligible dwelling unit may be weatherized without regard to the limitations contained in §440.18(e)(2) or §440.21(b) from funds designated by the grantee for carrying out low-cost/no-cost weatherization activities provided:

(1) Inexpensive weatherization materials are used, such as water flow controllers, furnace or cooling filters, or items which are primarily directed toward reducing infiltration, including weatherstripping, caulking, glass patching, and insulation for plugging and

(2) No labor paid with funds provided under this part is used to install weatherization materials referred to in paragraph (a)(1) of this section.

(b) A maximum of 10 percent of the amount allocated to a subgrantee, not to exceed $50 in materials costs per dwelling unit, may be expended to carry out low-cost/no-cost weatherization activities, unless the Support Office Director approves a higher expenditure per dwelling unit.


§ 440.21 Weatherization materials standards and energy audit procedures.

(a) Paragraph (b) of this section describes the required standards for weatherization materials. Paragraph (c)(1) of this section describes the performance and quality standards for renewable energy systems. Paragraph (c)(2) of this section specifies the procedures and criteria that are used for considering a petition from a manufacturer requesting the Secretary to certify an item as a renewable energy system. Paragraphs (d) and (e) of this section describe the cost-effectiveness tests that weatherization materials must pass before they may be installed in an eligible dwelling unit. Paragraph (f) of this section lists the other energy audit requirements that do not pertain to cost-effectiveness tests of weatherization materials. Paragraphs (g) and (h) of this section describe the use of priority lists and presumptively cost-effective general heat waste reduction materials as part of a State’s energy audit procedures. Paragraph (i) of this section explains that a State’s energy audit procedures and priority lists must be re-approved by DOE every five years.

(b) Only weatherization materials which are listed in appendix A to this part and which meet or exceed standards prescribed in appendix A to this part may be purchased with funds provided under this part. However, DOE may approve an unlisted material upon application from any State.

(c)(1) A system or technology shall not be considered by DOE to be a renewable energy system under this part unless:

(i) It will result in a reduction in oil or natural gas consumption;

(ii) It will not result in an increased use of any item which is known to be, or reasonably expected to be, environmentally hazardous or a threat to public health or safety;

(iii) Available Federal subsidies do not make such a specification unnecessary or inappropriate (in light of the most advantageous allocation of economic resources); and

(iv) If a combustion rated system, it has a thermal efficiency rating of at least 75 percent; or, in the case of a solar system, it has a thermal efficiency rating of at least 15 percent.

(2) Any manufacturer may submit a petition to DOE requesting the Secretary to certify an item as a renewable energy system.

(i) Petitions should be submitted to: Weatherization Assistance Program, Office of Energy Efficiency and Renewable, Mail Stop EE–2K, 1000 Independence Avenue, SW., Washington, DC 20585.

(ii) A petition for certification of an item as a renewable energy system must be accompanied by information demonstrating that the item meets the criteria in paragraph (c)(1) of this section.

(iii) DOE may publish a document in the FEDERAL REGISTER that invites public comment on a petition.

VerDate Mar<15>2010 14:20 Feb 16, 2011 Jkt 223032 PO 00000 Frm 00664 Fmt 8010 Sfmt 8010 Y:\SGML\223032.XXX 223032WReier-Aviles on DSKGBLS3C1PROD with CFR
(iv) DOE shall notify the petitioner of the Secretary's action on the request within one year after the filing of a complete petition, and shall publish notice of approvals and denials in the Federal Register.

(d) Except for materials to eliminate health and safety hazards allowable under §440.18(c)(15), each individual weatherization material and package of weatherization materials installed in an eligible dwelling unit must be cost-effective. These materials must result in energy cost savings over the lifetime of the measure(s), discounted to present value, that equal or exceed the cost of materials, installation, and on-site supervisory personnel as defined by the Department. States have the option of requiring additional related costs to be included in the determination of cost-effectiveness. The cost of incidental repairs must be included in the cost of the package of measures installed in a dwelling.

(e) The energy audit procedures must assign priorities among individual weatherization materials in descending order of their cost-effectiveness according to paragraph (d) of this section after:

(1) Adjusting for interaction between architectural and mechanical weatherization materials by using generally accepted engineering methods to decrease the estimated fuel cost savings for a lower priority weatherization material in light of fuel cost savings for a related higher priority weatherization material; and

(2) Eliminating any weatherization materials that are no longer cost-effective, as adjusted under paragraph (e)(1) of this section.

(f) The energy audit procedures also must—

(1) Compute the cost of fuel saved per year by taking into account the climatic data of the area where the dwelling unit is located, where the base temperature that determines the number of heating or cooling degree days (if used) reasonably approximates conditions when operation of heating and cooling equipment is required to maintain comfort, and must otherwise use reasonable energy estimating methods and assumptions;

(2) Determine existing energy use and energy requirements of the dwelling unit from actual energy bills or by generally accepted engineering calculations;

(3) Address significant heating and cooling needs;

(4) Make provision for the use of advanced diagnostic and assessment techniques which DOE has determined are consistent with sound engineering practices;

(5) Identify health and safety hazards to be abated with DOE funds in compliance with the State's DOE-approved health and safety procedures under §440.16(h);

(6) Treat the dwelling unit as a whole system by examining its heating and cooling system, its air exchange system, and its occupants' living habits and needs, and making necessary adjustments to the priority of weatherization materials with adequate documentation of the reasons for such an adjustment; and

(7) Be specifically approved by DOE for use on each major dwelling type and for similar dwelling units without unusual energy-consuming characteristics, energy audits may be accomplished by using a priority list developed by conducting, in compliance with paragraphs (b) through (f) of this section, site-specific energy audits of a representative subset of these dwelling units. For DOE approval, States must describe how the priority list was developed, how the subset of similar homes was determined, and circumstances that will require site-specific audits rather than the use of the priority lists. States also must provide the input data and list of weatherization measures recommended by the energy audit software or manual methods for several dwelling units from the subset of similar units.

(h) States may use, as a part of an energy audit, general heat waste reduction weatherization materials that DOE has determined to be generally
cost-effective. States may request approval to use general heat waste materials not listed in DOE policy guidance by providing documentation of their cost-effectiveness and a description of the circumstances under which such materials will be used.

(i) States must resubmit their energy audit procedures (and priority lists, if applicable, under certain conditions) to DOE for approval every five years. States must also resubmit to DOE, for approval every five years, their list of general heat waste materials in addition to those approved by DOE in policy guidance, if applicable. Policy guidance will describe the information States must submit to DOE and the circumstances that reduce or increase documentation requirements.

§ 440.22 Eligible dwelling units.

(a) A dwelling unit shall be eligible for weatherization assistance under this part if it is occupied by a family unit:

(1) Whose income is at or below 200 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget,

(2) Which contains a member who has received cash assistance payments under Title IV or XVI of the Social Security Act or applicable State or local law at any time during the 12-month period preceding the determination of eligibility for weatherization assistance; or

(3) If the State elects, is eligible for assistance under the Low-Income Home Energy Assistance Act of 1981, provided that such basis is at least 200 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.

(b) A subgrantee may weatherize a building containing rental dwelling units using financial assistance for dwelling units eligible for weatherization assistance under paragraph (a) of this section, where:

(1) The subgrantee has obtained the written permission of the owner or his agent;

(2) Not less than 66 percent (50 percent for duplexes and four-unit buildings, and certain eligible types of large multi-family buildings) of the dwelling units in the building:

(i) Are eligible dwelling units, or

(ii) Will become eligible dwelling units within 180 days under a Federal, State, or local government program for rehabilitating the building or making similar improvements to the building; and

(3) The grantee has established procedures for dwellings which consist of a rental unit or rental units to ensure that:

(i) The benefits of weatherization assistance in connection with such rental units, including units where the tenants pay for their energy through their rent, will accrue primarily to the low-income tenants residing in such units;

(ii) For a reasonable period of time after weatherization work has been completed on a dwelling containing a unit occupied by an eligible household, the tenants in that unit (including households paying for their energy through their rent) will not be subject to rent increases unless those increases are demonstrably related to matters other than the weatherization work performed;

(iii) The enforcement of paragraph (b)(3)(ii) of this section is provided through procedures established by the State by which tenants may file complaints, and owners, in response to such complaints, shall demonstrate that the rent increase concerned is related to matters other than the weatherization work performed; and

(iv) No undue or excessive enhancement shall occur to the value of the dwelling units.

(4)(i) A building containing rental dwelling units meets the requirements of paragraph (b)(2), and paragraphs (b)(3)(ii) and (b)(3)(iv), of this section if it is included on the most recent list posted by DOE of Assisted Housing and Public Housing buildings identified by the U.S. Department of Housing and Urban Development as meeting those requirements.

(ii) A building containing rental dwelling units meets the requirements of paragraph (b)(2), and paragraph
§ 440.23 Oversight, training, and technical assistance.

(a) The Secretary and the appropriate Support Office Director, in coordination with the Secretary of Health and Human Services, shall monitor and evaluate the operation of projects carried out by CAA's receiving financial assistance under this part through on-site inspections, or through other means, in order to ensure the effective provision of weatherization assistance for the dwelling units of low-income persons.

(b) DOE shall also carry out periodic evaluations of a program and weatherization projects that are not carried out by a CAA and that are receiving financial assistance under this part.

(c) The Secretary and the appropriate Support Office Director, the Comptroller General of the United States, and for a weatherization project carried out by a CAA, the Secretary of Health and Human Services or any of their duly authorized representatives, shall have access to any books, documents, papers, information, and records of any weatherization project receiving financial assistance under the Act for the purpose of audit and examination.

(d) Each grantee shall ensure that audits by or on behalf of subgrantees are conducted with reasonable frequency, on a continuing basis, or at scheduled intervals, usually annually, but not less frequently than every two years, in accordance with 10 CFR part 600, and OMB Circular 110, Attachment F, as applicable.

(e) The Secretary may reserve from the funds appropriated for any fiscal year an amount not to exceed 20 percent to provide, directly or indirectly, training and technical assistance to it may count each floor of the shelter as a dwelling unit.

any grantee or subgrantee. Such training and technical assistance may include providing information concerning conservation practices to occupants of eligible dwelling units.

(49 FR 3629, Jan. 27, 1984, as amended at 58 FR 12529, Mar. 4, 1993; 74 FR 12540, Mar. 25, 2009)

§ 440.24 Recordkeeping.

Each grantee or subgrantee receiving Federal financial assistance under this part shall keep such records as DOE shall require, including records which fully disclose the amount and disposition by each grantee and subgrantee of the funds received, the total cost of a weatherization project or the total expenditure to implement the State plan for which assistance was given or used, the source and amount of funds for such project or program not supplied by DOE, the average costs incurred in weatherization of individual dwelling units, the average size of the dwelling being weatherized, the average income of households receiving assistance under this part, and such other records as DOE deems necessary for an effective audit and performance evaluation. Such recordkeeping shall be in accordance with the DOE Financial Assistance Rule, 10 CFR part 600, and any further requirements of this part.

(38 FR 12529, Mar. 4, 1993)

§ 440.25 Reports.

DOE may require any recipient of financial assistance under this part to provide, in such form as may be prescribed, such reports or answers in writing to specific questions, surveys, or questionnaires as DOE determines to be necessary to carry out its responsibilities or the responsibilities of the Secretary of Health and Human Services under this part.

(Approved by the Office of Management and Budget under control number 1901-0127)

§§ 440.26–440.29 [Reserved]

§ 440.30 Administrative review.

(a) An applicant shall have 20 days from the date of receipt of a decision under §440.12 or §440.13 to file a notice requesting administrative review. If an applicant does not timely file such a notice, the decision under §440.12 or §440.13 shall become final for DOE.

(b) A notice requesting administrative review shall be filed with the Support Office Director and shall be accompanied by a written statement containing supporting arguments and requesting, if desired, the opportunity for a public hearing.

(c) A notice or any other document shall be deemed filed under this section upon receipt.

(d) On or before 15 days from receipt of a notice requesting administrative review which is timely filed, the Support Office Director shall forward to the Deputy Assistant Secretary, the notice requesting administrative review, the decision under §440.12 or §440.13 as to which administrative review is sought, a draft recommended final decision for the concurrence of the Deputy Assistant Secretary, and any other relevant material.

(e) If the applicant requests a public hearing, the Deputy Assistant Secretary, within 15 days, shall give actual notice to the State and FEDERAL REGISTER notice of the date, place, time, and procedures which shall apply to the public hearing. Any public hearing under this section shall be informal and legislative in nature.

(f) On or before 45 days from receipt of documents under paragraph (d) of this section or the conclusion of the public hearing, whichever is later, the Deputy Assistant Secretary shall concur in, concur in as modified, or issue a substitute for the recommended decision of the Support Office Director.

(g) On or before 15 days from the date of receipt of the determination under paragraph (f) of this section, the Governor may file an application, with a supporting statement of reasons, for discretionary review by the Assistant Secretary. On or before 15 days from filing, the Assistant Secretary shall send a notice to the Governor stating whether the Deputy Assistant Secretary’s determination will be reviewed. If the Assistant Secretary grants review, a decision shall be issued no later than 60 days from the date review is granted. The Assistant Secretary may not issue a notice or decision under this paragraph without
the concurrence of the DOE Office of General Counsel.

(h) A decision under paragraph (f) of this section shall be final for DOE if there is no review under paragraph (g) of this section. If there is review under paragraph (g) of this section, the decision thereunder shall be final for DOE, and no appeal shall lie elsewhere in DOE.

(i) Prior to the effective date of the termination of eligibility for further participation in the program because of failure to comply substantially with the requirements of the Act or of this part, a grantee shall have the right to written notice of the basis for the enforcement action and the opportunity for a public hearing notwithstanding any provisions to contrary of 10 CFR 600.26, 600.28(b), 600.29, 600.121(c), and 600.443. A notice under this paragraph shall be mailed by the Support Office Director by registered mail, return-receipt requested, to the State, local grantee, and other interested parties. To obtain a public hearing, the grantee must request an evidentiary hearing, with prior Federal Register notice, in the election letter submitted under Rule 2 of 10 CFR 1024.4 and the request shall be granted notwithstanding any provisions of Rule 2 to the contrary.


APPENDIX A TO PART 440—STANDARDS FOR WEATHERIZATION MATERIALS

The following Government standards are produced by the Consumer Product Safety Commission and are published in title 16, Code of Federal Regulations:


Fire Safety Requirements for Thermal Insulating Materials According to Insulation Use—Attic Floor—insulation materials intended for exposed use in attic floors shall be capable of meeting the same flammability requirements given for cellulose insulation in 16 CFR part 1209;

Enclosed spaces—insulation materials intended for use within enclosed stud or joist spaces shall be capable of meeting the smoldering combustion requirements in 16 CFR part 1209.

The following standards which are not otherwise set forth in part 440 are incorporated by reference and made a part of part 440. The following standards have been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on April 5, 1993 and a notice of any change in these materials will be published in the Federal Register. The standards incorporated by reference are available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

The standards incorporated by reference in part 440 can be obtained from the following sources:

Air Conditioning and Refrigeration Institute, 1501 Wilson Blvd., Arlington, VA 22209; (703) 524-8800.

American Gas Association, 1515 Wilson Blvd., Arlington, VA 22209; (703) 841-9400.

American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018; (212) 642-4900.

American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, NY 10017; (212) 705-7800.


American Architectural Manufacturers Association, 1540 East Dundee Road, Palatine, IL 60067; (708) 292-1300.

American Gas Appliance Manufacturers Association, 1801 Moore St., Arlington, VA 22209; (703) 525-9565.

American Wood Window and Door Association, 1400 East Touhy Avenue, Des Plaines, IL 60018; (708) 299-5200.

National Standards Association, 1400 Quince Orchard Blvd., Gaithersburg, MD 20878; (301) 990-2300. (NSA is a local contact for materials from ASTM).

National Fire Protection Association, Batterymarch Park, P.O. Box 9101, Quincy, MA 02269; (617) 770-3000.

National Standards Association, 1200 Quince Orchard Blvd., Gaithersburg, MD 20878; (301) 990-2300.

National Electrical Manufacturers Association, 2181 L Street, NW, Suite 300, Washington, DC 20037; (202) 457-6400.

National Wood Window and Door Association, 1400 East Touhy Avenue, Des Plaines, IL 60018; (708) 299-5200.

Sheet Metal and Air Conditioning Contractors Association, P.O. Box 22130, Chantilly, VA 20152-1290; (703) 863-2800.

Steel Door Institute, 712 Lakewood Center North, 14600 Detroit Avenue, Cleveland, OH 44107; (216) 899-0100.

Steel Window Institute, 1280Keith Building, Cleveland, OH 44115; (216) 241-7333.

Tubular Exchanger Manufacturers Association, 25 North Broadway, Tarrytown, NY 10591; (914) 332-0600.
THERMAL INSULATING MATERIALS FOR BUILDING ELEMENTS INCLUDING WALLS, FLOORS, CEILINGS, ATTICS, AND ROOFS

[Standards for conformance]

<table>
<thead>
<tr>
<th>Insulation</th>
<th>ASTM Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roof insulation board</td>
<td>C726–88.</td>
</tr>
<tr>
<td>Mineral fiber blanket</td>
<td>Five hundred and eighty-four.</td>
</tr>
<tr>
<td>Cellular glass insulation block</td>
<td>C728–89a.</td>
</tr>
<tr>
<td>Insulation—organic cellular:</td>
<td>C584–83.</td>
</tr>
<tr>
<td>Preformed block-type polystyrene insulation</td>
<td>C578–87a.</td>
</tr>
<tr>
<td>Polyurethane or polyisocyanurate insulation board faced with aluminum foil on both sides</td>
<td>C584–83.</td>
</tr>
<tr>
<td>Polyurethane or polyisocyanurate insulation board faced with felt on both sides</td>
<td>HH–I–1972/1 (1981).</td>
</tr>
<tr>
<td>Perlite board and rigid cellular polyurethane composite roof insulation</td>
<td>C584–83.</td>
</tr>
<tr>
<td>Materials used as a patch to reduce infiltration through the building envelope</td>
<td>Commercially available.</td>
</tr>
</tbody>
</table>

1 ASTM indicates American Society for Testing and Materials.
2 FS indicates Federal Specifications.

THERMAL INSULATING MATERIALS FOR PIPES, DUCTS, AND EQUIPMENT SUCH AS BOILERS AND FURNACES

[Standards for conformance]

<table>
<thead>
<tr>
<th>Insulation</th>
<th>ASTM Standards</th>
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</thead>
<tbody>
<tr>
<td>Preformed pipe insulation</td>
<td>C547–77.</td>
</tr>
<tr>
<td>Blanket and felt insulation (industrial type)</td>
<td>C553–70 (1977).</td>
</tr>
<tr>
<td>Blanket insulation and blanket type pipe insulation (metal-mesh covered) (industrial type)</td>
<td>C592–80.</td>
</tr>
<tr>
<td>Block and board insulation</td>
<td>C612–83.</td>
</tr>
<tr>
<td>Spray applied fibrous insulation for elevated temperature</td>
<td>C720–89.</td>
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<tr>
<td>High-temperature fiber blanket insulation</td>
<td>C892–89.</td>
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<td>Duct work insulation</td>
<td>C971–82.</td>
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<tr>
<td>Calcium silicate block and pipe insulation</td>
<td>C533–85 (1990).</td>
</tr>
<tr>
<td>Diatomaceous earth block and pipe insulation</td>
<td>C610–85.</td>
</tr>
<tr>
<td>Cellular glass insulation</td>
<td>C591–86.</td>
</tr>
<tr>
<td>Expanded perlite block and pipe insulation</td>
<td>C534–88.</td>
</tr>
<tr>
<td>Insulation—organic Cellular:</td>
<td>Commercially available.</td>
</tr>
<tr>
<td>Preformed flexible elastomeric cellular insulation in sheet and tubular form</td>
<td>C591–86.</td>
</tr>
<tr>
<td>Untreated preformed rigid cellular polyurethane insulation</td>
<td>C591–86.</td>
</tr>
<tr>
<td>Insulation skirting</td>
<td>Commercially available.</td>
</tr>
</tbody>
</table>

1 ASTM indicates American Society for Testing and Materials.

FIRE SAFETY REQUIREMENTS FOR INSULATING MATERIALS ACCORDING TO INSULATION USE

[Standards for conformance]

Attic floor

Insulation materials intended for exposed use in attics floors shall be capable of meeting the same smoldering combustion requirements given for cellulose insulation in ASTM C739–88.
**FIRE SAFETY REQUIREMENTS FOR INSULATING MATERIALS ACCORDING TO INSULATION USE—Continued**

[Standards for conformance]

<table>
<thead>
<tr>
<th>Location</th>
<th>Requirement</th>
</tr>
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<tbody>
<tr>
<td>Enclosed space</td>
<td>Insulation materials intended for use within enclosed stud or joist spaces shall be capable of meeting the smoldering combustion requirements in ASTM C739–88.</td>
</tr>
<tr>
<td>Exposed interior walls and ceilings</td>
<td>Insulation materials, including those with combustible facings, which remain exposed and serve as wall or ceiling interior finish, shall have a flame spread classification not to exceed 150 (per ASTM E84–89a).</td>
</tr>
<tr>
<td>Exterior envelope walls and roofs</td>
<td>Exterior envelope walls and roofs containing thermal insulations shall meet applicable local government building code requirements for the complete wall or roof assembly. Insulation materials intended for use on pipes, ducts and equipment shall be capable of meeting a flame spread classification not to exceed 150 (per ASTM E84–89a).</td>
</tr>
</tbody>
</table>

1 ASTM indicates American Society for Testing and Materials.

**STORM WINDOWS**

[Standards for conformance]

<table>
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<tr>
<th>Storm windows:</th>
<th>Standards</th>
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<tr>
<td>Aluminum insulating storm windows</td>
<td>ANSI/AAMA 1002.10–83.</td>
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<tr>
<td>Aluminum frame storm windows</td>
<td>ANSI/AAMA 1002.10–83.</td>
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<tr>
<td>Wood frame storm windows</td>
<td>ANSI/NWWDA 2 I.S. 2–87. (Section 3)</td>
</tr>
<tr>
<td>Rigid vinyl frame storm windows</td>
<td>ASTM D4099–89.</td>
</tr>
<tr>
<td>Frameless plastic glazing storm</td>
<td>Required minimum thickness windows is 6 mil (.006 inches).</td>
</tr>
<tr>
<td>Movable insulation systems for windows</td>
<td>Commercially available.</td>
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</table>


**STORM DOORS**

[Standards for conformance]

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<tr>
<th>Storm doors—Aluminum:</th>
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<tbody>
<tr>
<td>Storm doors</td>
<td>ANSI/AAMA 1 1102.7–89.</td>
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<tr>
<td>Sliding glass storm doors</td>
<td>ANSI/AAMA 1002.10–83.</td>
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<tr>
<td>Wood storm doors</td>
<td>ANSI/NWWDA 2 I.S. 6–86.</td>
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<tr>
<td>Vestibules:</td>
<td>Materials to construct vestibules are commercially available.</td>
</tr>
<tr>
<td>Replacement windows:</td>
<td></td>
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<tr>
<td>Steel frame windows</td>
<td>Steel Window Institute recommended specifications for steel windows, 1990.</td>
</tr>
<tr>
<td>Rigid vinyl frame windows</td>
<td>ASTM D4099–89.</td>
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**REPLACEMENT DOORS**

[Standards for conformance]

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<th>Standards</th>
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<tbody>
<tr>
<td>Steel doors</td>
<td>ANSI/SDI 1 100–1985.</td>
</tr>
<tr>
<td>Flush doors</td>
<td>ANSI/NWWDA 2 I.S. 1–87. (exterior door provisions)</td>
</tr>
<tr>
<td>Pine, fir, hemlock and spruce doors</td>
<td>ANSI/NWWDA I.S. 6–86.</td>
</tr>
<tr>
<td>Sliding patio doors:</td>
<td></td>
</tr>
<tr>
<td>Wood doors</td>
<td>NWWDA I.S. 3–83.</td>
</tr>
</tbody>
</table>

1 ANSI/SDI indicates American National Standards Institute/Steel Door Institute.

**CAULKS AND SEALANTS:**

[Standards for conformance]

<table>
<thead>
<tr>
<th>Caulks and sealants:</th>
<th>Standards</th>
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</thead>
<tbody>
<tr>
<td>Oil and resin base caulks</td>
<td>ASTM C570–72 (1989).</td>
</tr>
</tbody>
</table>

1 FS indicates Federal Standard.
CAULKS AND SEALANTS—Continued

Butyl rubber sealants .................................. FS TT–S–001657, October 8, 1970.
Elastomeric joint sealants (normally con-
idered to include polysulfide, poly-
urethane, and silicone).
Preformed gaskets and sealing materials ... ASTM C509–84.

1 FS indicates Federal Specifications.
2 ASTM indicates American Society for Testing and Materials.

WEATHERSTRIPPING

Weatherstripping .......................................... Commercially available.
Vapor retarders ............................................ Selected according to the provisions cited in ASTM 1 C755–85 (1990). Permeance not greater than 1 perm when determined according to the desiccant method de-scibed in ASTM E96–90.
Items to improve attic ventilation ................. Commercially available.
Clock thermostats ........................................ NEMA 2 DC 3–1989.

1 ASTM indicates American Society for Testing and Materials.
2 NEMA indicates National Electrical Manufacturers Association.

HEAT EXCHANGERS

Heat exchangers, water-to-

1 ASME indicates American Society of Mechanical Engineers.
2 The heat reclaimer is for installation in a section of the vent connector from appliances equipped with draft hoods or appli-
ances equipped with powered burners or induced draft and not equipped with a draft hood.
3 AGA indicates American Gas Association.
4 UL indicates Underwriters Laboratories.

BOILER/FURNACE CONTROL SYSTEMS

Automatic set back thermostats .................. Listed by UL. 1 Conformance to NEMA 2 DC 3–1989.
Line voltage or low voltage room thermostats Listed by UL. NEMA DC 3–1989.
Energy management systems ...................... Listed by UL.
Hydronic boiler controls ............................ Listed by UL.
Other burner controls ............................... Listed by UL.

1 UL indicates Underwriters Laboratories.
2 NEMA indicates National Electrical Manufacturers Association.
3 ANSI indicates American National Standards Institute.
4 AGA indicates American Gas Association.

WATER HEATER MODIFICATIONS

Insulate tank and distribution piping (See insulation section of this appendix).
Install heat traps on inlet and outlet piping Applicable local plumbing code.
Install/replace water heater heating elements Listed by UL.1
Electric, freeze-prevention tape for pipes Listed by UL.
Reduce thermostat settings ....................... State or local recommendations.

1 UL indicates Underwriters Laboratories.
2 ANSI indicates American National Standards Institute.
## WASTE HEAT RECOVERY DEVICES

### Standards for conformance

<table>
<thead>
<tr>
<th>Desuperheater/water heaters</th>
<th>ARI¹ 470–1987</th>
</tr>
</thead>
<tbody>
<tr>
<td>Condensing heat exchangers</td>
<td>Commercially available components and in new heating furnace systems to manufacturers' specifications.</td>
</tr>
<tr>
<td>Condensing heat exchangers</td>
<td>Commercially available (Commercial, multi-story building, with teflon-lined tubes institutional) to manufacturers' specifications.</td>
</tr>
</tbody>
</table>

¹ ARI indicates Air Conditioning and Refrigeration Institute.
² SMACNA denotes Sheet Metal and Air Conditioning Contractors' National Association.

### BOILER REPAIR AND MODIFICATIONS/EFFICIENCY IMPROVEMENTS

#### Standards for conformance

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Replace/modify boilers</td>
<td>ASME Boiler and Pressure Vessel Code, 1992, Sections II, IV, V, VI, VIII, IX, and X. Boilers must be Institute of Boilers and Radiation Manufacturers (IBR) equipment.</td>
</tr>
<tr>
<td>Clean heat exchanger, adjust burner air shutter(s), check smoke no. on oil-fired equipment. Check operation of pump(s) and replacement filters.</td>
<td>Per manufacturers' instructions.</td>
</tr>
<tr>
<td>Repair combustion chambers</td>
<td>Refractory linings may be required for conversions.</td>
</tr>
<tr>
<td>Replace heat exchangers, tubes</td>
<td>Commercially available. One pipe steam systems require air vents on each radiator; see manufacturers' requirements.</td>
</tr>
<tr>
<td>Install/replace thermostatic radiator valves</td>
<td>Commericially available. NFPA 70, National Electrical Code (NEC) 1995 and local electrical codes provisions for wiring.</td>
</tr>
</tbody>
</table>

1 ANSI indicates American National Standards Institute.
2 AGA indicates American Gas Association.
3 UL indicates Underwriters Laboratories.
5 ANSI/ASME indicates American National Standards Institute/American Society of Mechanical Engineers.

### HEATING AND COOLING SYSTEM REPAIRS AND TUNE-UPS/EFFICIENCY IMPROVEMENTS

#### Standards for conformance

<table>
<thead>
<tr>
<th>Install duct insulation</th>
<th>FS¹ HH-I-558C, January 7, 1992 (see insulation sections of this appendix).</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reduce input of burner; derate gas-fired equipment</td>
<td>Local utility company and procedures if applicable for gas-fired furnaces and ANSI² Z223.1–1988 (NFPA 54–1988) including Appendix H.</td>
</tr>
<tr>
<td>Replace combustion chamber in oil-fired furnaces or boilers</td>
<td>ANSI Z223.1–1988 (NFPA 54–1988) including Appendix H.</td>
</tr>
<tr>
<td>Reduce excess combustion air</td>
<td>ANSI Z223.1–1988 (NFPA 54–1988) and per manufacturers' (furnace or boiler) instructions.</td>
</tr>
<tr>
<td>A: Reduce vent connector size of gas-fired appliances</td>
<td>NFPA 31–1987 and per manufacturers' (furnace or boiler) instructions.</td>
</tr>
<tr>
<td>B: Adjust barometric draft regulator for oil fuels</td>
<td>Applicable sections of NFPA 31–1987 for installation and in conformance with UL⁴ 17, November 28, 1988.</td>
</tr>
<tr>
<td>Replace burners</td>
<td>See power burners (oil/gas).</td>
</tr>
<tr>
<td>Install/replace heat pumps</td>
<td>Listed by UL.</td>
</tr>
</tbody>
</table>
HEATING AND COOLING SYSTEM REPAIRS AND TUNE-UPS/EFFICIENCY IMPROVEMENTS—Continued

[Standards for conformance]

Replace air diffusers, intakes, registers, and grilles
Install/replace warm air heating metal ducts
Filter alarm units
Commerically available.
Commerically available.
Commerically available.

1 FS indicates Federal Specifications.
2 ANSI indicates American National Standards Institute.
4 UL indicates Underwriters Laboratories.

REPLACEMENT FURNACES, BOILERS, AND WOOD STOVES

[Standards for conformance]

Ventilation fans:
Including electric attic, ceiling, and whole house fans ........ UL 507, August 23, 1990 Revision.

1 NFPA indicates National Fire Prevention Association.
2 ANSI indicates American National Standards Institute.
3 UL indicates Underwriters Laboratories.

AIR CONDITIONERS AND COOLING EQUIPMENT

[Standards for conformance]

Air conditioners:
Room size units ........................................................................ ANSI/AHAM RAC–1–1982.
Other cooling equipment:
Including evaporative coolers, heat pumps and other equipment ........ UL 1995, November 30, 1990. 4

1 ARI indicates Air Conditioning and Refrigeration Institute.
3 UL indicates Underwriters Laboratories.
4 This standard is a general standard covering many different types of heating and cooling equipment.

SCREENS, WINDOW FILMS, AND REFLECTIVE MATERIALS

[Standards for conformance]

Insect screens ........................................................................... Commercially available.
Window films ............................................................................... Commercially available.
Shade screens:
Fiberglass shade screens .......................................................... Commercially available.
Polyester shade screens ............................................................. Commercially available.
Rigid awnings:
Wood rigid awnings .................................................................. Commercially available.
Metal rigid awnings ................................................................... Commercially available.
Louver systems:
Wood louver systems ................................................................. Commercially available.
Metal louver systems ................................................................ Commercially available.
Industrial-grade white paint used as a heat-reflective measure on awnings, window louver systems, doors, and exterior duct work (exposed).

Commercially available.

[58 FR 12529, Mar. 4, 1993, as amended at 69 FR 18803, Apr. 9, 2004]

PART 445 [RESERVED]

PART 451—RENEWABLE ENERGY PRODUCTION INCENTIVES

Sec.
451.1 Purpose and scope.
451.2 Definitions.
451.3 Who may apply.

451.4 What is a qualified renewable energy facility.
451.5 Where and when to apply.
451.6 Duration of incentive payments.
451.7 Metering requirements.
451.8 Application content requirements.
451.9 Procedures for processing applications.
451.10 Administrative appeals.