

**DEPARTMENT OF ENERGY****Office of Energy Efficiency and Renewable Energy****10 CFR Part 440**

[Docket No. EE-RM-95-401]

**Weatherization Assistance Program for Low-Income Persons****AGENCY:** Department of Energy.**ACTION:** Notice of proposed rulemaking and public hearing.

**SUMMARY:** The Department of Energy (DOE) is today publishing a notice of proposed rulemaking to amend the regulations for the Weatherization Assistance Program for Low-Income Persons to propose changes to the formula used to distribute funds among the States under the Program. Pursuant to the Conference Report on the Department of Interior and Related Agencies Appropriations Act, 1995, DOE proposes to change the formula in order to increase the overall equity, among the States, of fund allocations under the program regulations, while at the same time preserving existing State program capabilities. The proposed formula change proposed by DOE addresses several key concerns expressed by many States. The criteria used in the proposed formula would reflect: Number of low-income households by State; climatic conditions using weather data by State; and residential energy expenditures by low-income households by State.

**DATES:** Written comments (6 copies and, if possible, a computer disk—WP 5.1) must be received by the Department on or before March 9, 1995. Oral views, data and arguments may be presented at public hearings to be held in San Francisco, CA beginning at 5 p.m. on January 23, 1995 and in Washington, DC beginning at 9:30 a.m. on February 14, 1995.

Request to speak at the hearing in San Francisco, CA must be received no later than 4 p.m. on January 19, 1995. Request to speak at the hearing in Washington, DC must be received no later than 4 p.m. on February 10, 1995. The length of each presentation is limited to 10 minutes.

**ADDRESSES:** All written comments (6 copies) and requests to speak at the hearing should be addressed to: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE-532 WAP Rulemaking, Docket No. EE-RM-95-401, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-3012. In the event any person wishing to submit a written comment

cannot provide six copies, alternative arrangements can be made in advance by calling the phone number referenced above.

The hearings will be held at the following locations: Washington DC hearing at U.S. Department of Energy, 1000 Independence Avenue SW., Room 1E-245 beginning at 9:30 a.m. San Francisco, CA hearing at San Francisco Hilton, Continental Ballroom 4, 333 O'Farrell, San Francisco, CA beginning at 5 p.m.

Copies of the transcript of the public hearing and written comments received may be read at the DOE Freedom of Information Reading Room, U.S. Department of Energy, Room 1E-190, 1000 Independence Avenue SW., Washington DC 20585, (202) 586-6020 between the hours of 9 a.m. and 4 p.m. Monday through Friday, except holidays. For more information concerning public participation in this rulemaking proceeding see section titled "Opportunity for Public Comment" of this notice.

**FOR FURTHER INFORMATION CONTACT:** Greg Reamy or Henry Clarius, Weatherization Assistance Program Division, U.S. Department of Energy, Mail Stop EE-532, 1000 Independence Avenue SW., Washington, DC 20585, (202) 426-1698.

Vivian Lewis, Office of General Counsel, Mail Stop GC-72, 6B-256, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9507.

**SUPPLEMENTARY INFORMATION:****I. Introduction**

Since 1976, the Department of Energy has operated the nation's largest energy conservation program—the Weatherization Assistance Program for Low-Income Persons (Program) pursuant to Title III of the Energy Conservation and Production Act (Act), 42 U.S.C. 6861, *et seq.* Section 411 of the Act, 42 U.S.C. 6861, provides that the Program is "to develop and implement a weatherization assistance program to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total residential energy expenditures, and improve their health and safety, especially low-income persons who are particularly vulnerable such as the elderly, the handicapped, and children."

The Program is administered in all 50 States, and the District of Columbia, and by certain Indian tribes, which in turn fund nearly 1,200 local agencies to provide weatherization services to eligible low-income persons. Based on priorities identified by energy audits conducted by local agencies and other

weatherization service providers, energy efficiency measures are installed, including modifications to the heating and cooling systems. The overall condition of the dwellings weatherized is usually poor, resulting in high energy bills. If the low-income residents cannot afford to pay expensive fuel bills, the occupants, who may be children, elderly or persons with disabilities, may be rendered homeless because they cannot afford alternative accommodations. Weatherization and incidental repair of such dwellings help keep low-income people in their homes.

The Department of Energy (DOE or Department) today proposes to change the formula used to distribute funds under the Weatherization Assistance Program for Low-Income Persons, which is codified in 10 CFR part 440. The Program is also subject to the DOE general financial assistance regulations in 10 CFR part 600.

In the Conference Report (H.R. Conf. Rep. No. 103-740, 103rd Cong., 2nd Sess. (1994) on the Department of Interior and Related Agencies Appropriations Act, 1995 Pub. L. 103-332, the conference committee stated that sufficient funds were being made available to permit DOE to revise the formula. The intent of the Congress was to provide warmer-weather States a greater share of the funding, while protecting the Program capacity developed over the years by colder-weather States. DOE believes that the proposed formula satisfies this intent and is consistent with the requirements of the Act.

The Act requires DOE to allocate funds to States based on the relative need for weatherization assistance among low-income persons throughout the States, taking into account the following factors: (1) the number of dwelling units to be weatherized; (2) the climatic conditions in each State which may include annual degree days; (3) the various types of weatherization work to be done; and (4) other factors as determined by DOE, such as the cost of heating and cooling. 42 U.S.C. 6864(a).

In order to allocate funds each year, DOE applies the formula in 10 CFR 440.10 to the amount of funds remaining after training and technical assistance funds are subtracted from the annual appropriation. The current formula establishes for each State a minimum base grant level of \$100,000 (Alaska receives an additional \$100,000). The remaining available funds are allocated by a mathematical formula which takes into account heating/cooling degree days, total residential energy use for space heating/cooling, the number of low-income

owner-occupied dwelling units, and the number of low-income renter occupied dwelling units in the State. 10 CFR 440.10(b). This basic formula has remained unchanged since 1977. Data used in the formula for weather, residential energy use, and population have been updated several times. The formula data for program year 1993 were updated to include the 1990 census data.

Over the years, many of the warmer-weather States have maintained that the current Program formula does not provide them an appropriate share of funds and have encouraged both the Congress and DOE to make changes to the formula. Although the States and Congress have deliberated over this issue at length, there has been no consensus on what changes should be made to the formula or how to implement such changes.

Warmer-weather States believe the current requirement for the squaring of heating and cooling degree days results in an over-allocation of funds to colder-climate States. Many States believe giving only one-half credit for renters in the formula unfairly reduces allocations and does not reflect the true extent of poverty. Many States believe DOE should use State level data for percent of energy used for space heating and space cooling instead of the national average that is currently used.

In analyzing the issues related to the formula, DOE carefully evaluated the impact of making any type of change to the current formula. DOE has received many suggestions from virtually all of the Program's primary stakeholders—the States. Others expressed their concerns or supported changes to the formula.

In an effort to evaluate the current positions of the States on this issue, DOE initiated a study through the National Association of State Community Services Programs (NASCS), the national organization for State Weatherization directors, to survey all members for their ideas and to make recommendations to DOE. The study was conducted by a NASCS national review panel representing the ten Federal regions of the country. While not all States are members of NASCS, copies of a draft of NASCS's report on the study were made available to non-member States. The findings of this study can be summarized in two key areas: (1) formula criteria, and (2) formula implementation.

A final report of NASCS, including comments of non-member States, was issued to DOE in November 1993, entitled "Final Report of the Formula Allocation Project." Copies of this

report can be obtained from NASCS, 444 North Capitol Street NW., Washington, DC. DOE will also make available for inspection a copy of the study at the DOE Freedom of Information Office Reading Room, Room 1E-090, 1000 Independence Avenue SW., Washington, DC 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

The Panel submitted for the Department's consideration four formulas, including the Panel's own formula. In addition, one State submitted a formula directly to the Department. The Panel also submitted five alternatives for implementing the formula, including one developed by the Panel. The Department evaluated each of these options, as well as other input, in developing the formula change proposed today.

The Panel's formula includes three elements: the number of low-income households below 125 percent of the poverty level, giving equal weight to owners and renters; climatic conditions across the country using heating and cooling degree days; and residential energy expenditures by low-income household per State. While the Department agrees with the basic premise embodied in the Panel's formula, certain modifications were made by DOE to the individual factors to provide a more equitable distribution of funds among all States.

A second proposed formula submitted to the Panel by Montana would continue to use the current formula. A third formula, submitted by Illinois, suggests allocating half of the funding under the Panel's formula and half under the current formula. A fourth formula, proposed by Minnesota, is based on the Panel formula, but would change the way the climate factor is calculated. Finally, Wisconsin proposed directly to the Department a modification of the current formula regarding the calculation of the cooling component for climatic conditions, consideration of the age of the building stock, and consideration of the percent of multifamily households.

Regarding Montana's recommendation, DOE disagrees with the continued use of the existing formula because of the long-standing perception of many States regarding its inequity. The formula submitted by Illinois does not produce an acceptable distribution of funds among States and would adversely affect the capacity in many State programs. The formula submitted by Minnesota effectively approximates the current squaring of heating and cooling degree days, resulting in a formula that does not

sufficiently address States' equity concerns. The Department believes that the more important data necessary to implement the formula submitted by Wisconsin is not readily available.

There was also a divergence of opinion among the States as to the implementation strategy that DOE should use for any formula. The Panel proposed a five year phase-in of its formula with all funds allocated pursuant to the Panel's formula after the five-year phase-in period. An alternative proposed by North Carolina and Oklahoma would immediately implement the Panel's formula in its entirety and without regard to impact on the size of existing State programs. Three other submissions all included various mixes of current and new formulas designed to avoid significant reductions below current levels for existing State programs.

The Department accepts the need to buffer States from serious losses in program capacity, while at the same time seeking to gain the benefits of a new formula. Consistent with these two objectives, the formula implementation proposed today establishes a fixed base amount of funds for each State that is derived from the amount received from the fiscal year 1993, while remaining funds would be distributed pursuant to the proposed formula. Fiscal year 1993 was the most recent available data when Congress passed the fiscal year 1995 appropriation.

## II. Amendments to the Weatherization Assistance Program Formula

This part of the Supplementary Information discusses those provisions of the proposed amendments that are not self-explanatory.

### § 440.3 Definitions.

DOE proposes to amend this section to delete the references to the current formula which will not be a part of the proposed formula. The definitions proposed to be deleted are: "number of owner-occupied units in the State"; "number of low-income, renter-occupied dwelling units in the State"; "percentage of total residential energy used for space cooling"; and "percentage of total residential energy used for space heating".

In proposing a new formula for the Program, DOE proposes to add several new definitions to § 440.3 which describe the new criteria to be used.

DOE proposes to add a definition of "base allocation," as set forth in proposed § 440.10(b)(1), which refers to the fixed base amount each State receives. That amount is derived from

each State's fiscal year 1993 allocation of funds.

DOE also proposes to add definitions of "program allocation" and "total program allocations." The former represents the amount of funds (base allocation plus formula allocation), to be distributed to each State. The latter refers to the annual appropriation less funds reserved for training and technical assistance.

In § 440.12(b)(4) the term "tentative allocation" would be deleted and "program allocation" would be substituted to provide consistency with the proposed § 440.10. It should be noted that the original intent in using the term "tentative allocation" (discretion to reallocated funds if they are not used on a timely basis) is retained by DOE in substituting "program allocation" as it applies in proposed § 440.10(f) and (g). In proposed § 440.14(b)(9)(vi) the term "tentatively" would be deleted.

In section 440.14(b)(8)(i) the term "tentative allocation" has been retained. This term in context refers to State allocation (rather than DOE allocation) of funds among their subgrantees and the right of the State to reduce or withdraw these funds for non-performance or other deficiencies.

**§ 440.10 Allocation of funds.**

DOE is proposing to delete the current formula in § 440.10 and replace it with the formula set forth in proposed § 440.10(b). Paragraph (b)(1) of proposed § 440.10 would provide for a program allocation (PA) for each State consisting of two parts. The two parts are: (1) a fixed amount of money (approximately equal to the State's FY 1993 allocation), which is referred to as a State's "Base Allocation" (BA) (See Table 1); and (2) an amount of money referred to as the "Formula Allocation, which will be determined by application of the proposed formula.

The program allocation is expressed mathematically as:

$$PA=BA+FA$$

**Base Allocation**

Table 1 presents the "Base Allocation" for each State.

TABLE 1.—"BASE ALLOCATION" BY STATE

Alabama .....	1,636,000
Alaska .....	1,425,000
Arkansas .....	1,417,000
Arizona .....	760,000
California .....	4,404,000
Colorado .....	4,574,000
Connecticut .....	1,887,000
Delaware .....	409,000
District of Columbia .....	487,000
Florida .....	761,000
Georgia .....	1,844,000
Hawaii .....	120,000
Idaho .....	1,618,000
Illinois .....	10,717,000
Indiana .....	5,156,000
Iowa .....	4,032,000
Kansas .....	1,925,000
Kentucky .....	3,615,000
Louisiana .....	912,000
Maine .....	2,493,000
Maryland .....	1,963,000
Massachusetts .....	5,111,000
Michigan .....	12,346,000
Minnesota .....	8,342,000
Mississippi .....	1,094,000
Missouri .....	4,615,000
Montana .....	2,123,000
Nebraska .....	2,013,000
Nevada .....	586,000
New Hampshire .....	1,193,000
New Jersey .....	3,775,000
New Mexico .....	1,519,000
New York .....	15,302,000
North Carolina .....	2,853,000
North Dakota .....	2,105,000
Ohio .....	10,665,000
Oklahoma .....	1,846,000
Oregon .....	2,320,000
Pennsylvania .....	11,457,000
Rhode Island .....	878,000
South Carolina .....	1,130,000
South Dakota .....	1,561,000
Tennessee .....	3,218,000
Texas .....	2,999,000
Utah .....	1,692,000
Vermont .....	1,014,000
Virginia .....	2,970,000
Washington .....	3,775,000
West Virginia .....	2,573,000
Wisconsin .....	7,061,000

TABLE 1.—"BASE ALLOCATION" BY STATE—Continued

Wyoming .....	967,000
Total .....	171,258,000

**Formula Allocation**

The amount of total Formula Allocations (the amount which will be distributed among States based on the proposed formula) is calculated by subtracting total Base Allocations (\$171,258,000) from the total Program Allocations. For example, if the amount of total Program Allocations is \$200,000,000, the amount of total Formula Allocations would be \$28,742,000 (\$200,000,000-\$171,258,000).

The Formula Allocation for each State is calculated by multiplying the total amount of Formula Allocations by each State's Formula Share, which is determined by the proposed formula.

**Formula Factors**

The proposed formula is composed of three factors for each State. The first factor (F1) is the population factor. The next factor (F2) represents the climatic conditions in each State, derived from heating and cooling degree days. The last factor (F3) is residential energy expenditures by low-income households in each State.

**F1 Population Factor**

The first factor in the proposed formula is the population factor. This is represented by the share of the Nation's low-income households in each State expressed as a percentage. Unlike the current formula, the proposed formula will give equal weight to owners and renters. The number of low-income households was obtained from a special run by the Bureau of the Census for the Department of Energy, referenced as "Households at 125% or less, Special Tab #54, Census Bureau".

F1—State Population Factor

$$F1 = \frac{\text{Total Number of Low-Income Households in the State}}{\text{Total Number of Low-Income Households Nationwide}} \times 100$$

Table 2 presents the number of low-income households and the population factor (F1) for each State.

*Table Explanation*

Column A—State Name.

Column B—Number of Low-Income Households per State.

Column C—State Population Factor (F1)—is calculated by dividing the number of low-income households in

a given State (Column B) by the national total (16,231,250—shown at the bottom of the table) and multiplied by 100.

TABLE 2.—LOW-INCOME HOUSEHOLDS BY STATE

State A	Number of low-income households B	Percent of national low-income households (F1) C
Alabama .....	386,525	2.3814
Alaska .....	21,729	0.1339
Arizona .....	261,161	1.6090
Arkansas .....	240,155	1.4796
California .....	1,525,061	9.3958
Colorado .....	206,052	1.2695
Connecticut .....	120,483	0.7423
Delaware .....	31,028	0.1912
District of Columbia .....	46,438	0.2861
Florida .....	879,786	5.4203
Georgia .....	471,834	2.9069
Hawaii .....	40,856	0.2517
Idaho .....	69,204	0.4264
Illinois .....	657,508	4.0509
Indiana .....	327,581	2.0182
Iowa .....	184,021	1.1337
Kansas .....	163,891	1.0097
Kentucky .....	357,665	2.2036
Louisiana .....	442,320	2.7251
Maine .....	80,276	0.4946
Maryland .....	196,788	1.2124
Massachusetts .....	313,297	1.9302
Michigan .....	598,427	3.6869
Minnesota .....	247,149	1.5227
Mississippi .....	294,611	1.8151
Missouri .....	377,864	2.3280
Montana .....	68,456	0.4218
Nebraska .....	104,707	0.6451
Nevada .....	64,869	0.3997
New Hampshire .....	43,406	0.2674
New Jersey .....	303,328	1.8688
New Mexico .....	135,642	0.8357
New York .....	1,138,016	7.0113
North Carolina .....	489,172	3.0138
North Dakota .....	51,103	0.3148
Ohio .....	705,646	4.3475
Oklahoma .....	284,883	1.7552
Oregon .....	191,508	1.1799
Pennsylvania .....	725,124	4.4675
Rhode Island .....	57,155	0.3521
South Carolina .....	274,749	1.6927
South Dakota .....	56,917	0.3507
Tennessee .....	418,703	2.5796
Texas .....	1,345,471	8.2894
Utah .....	88,775	0.5469
Vermont .....	32,563	0.2006
Virginia .....	333,824	2.0567
Washington .....	280,943	1.7309
West Virginia .....	184,759	1.1383
Wisconsin .....	279,527	1.7222
Wyoming .....	30,294	0.1866
National total .....	16,231,250	100

**F2 Climate Factor**

The second factor, climatic conditions, is obtained by adding the heating and cooling degree days for each State, treating the energy needed for heating and cooling proportionately.

The proposed formula uses (as does the current formula) the thirty year averages of heating degree days (HDD) and cooling degree days (CDD) as reported by the National Oceanic and Atmospheric Administration (NOAA) to

account for climatic conditions. Heating and cooling consumption data were obtained from Table 28 of the Energy Information Administration's (EIA) Household Energy Consumption and Expenditures 1990.

State Climate Factor  
 F2=HDD State Ratio + CDD State Ratio  
 HDD and CDD Ratios

State HDD Ratio

$$\text{State HDD Ratio} = \frac{\text{State HDD}}{\text{National Median HDD}}$$

State CDD Ratio

$$\text{State CDD Ratio} = \frac{\text{State CDD}}{\text{National Median CDD}} \times 0.1$$

where

$$\frac{\text{Cooling Consumption (.49 Quadrillion Btu)}}{\text{Heating Consumption (4.79 Quadrillion Btu)}} = 0.1$$

National heating consumption equals 4.79 quadrillion Btu and air conditioning (cooling) consumption equals .49 quadrillion Btu. Cooling consumption divided by heating consumption rounds to 0.1. The ratio of cooling to heating energy consumption reflects the fact that nationally households use, on average, one tenth as much energy for cooling as for heating. This ratio is reflected in the existing allocation formula. National data are used because of the absence of complete State-specific data.

In order to account for the variation in weather in a simple but equitable manner, DOE compares each State's climate to the national median. Each State's HDD and CDD is divided by the series' median value. Using the median as the denominator ensures that half of the States would fall above 1 and half would fall below 1. A State HDD ratio (HDD divided by the median) greater than 1 indicates a State with relatively cold winters, while a value greater than 1 for a State's CDD ratio indicates a

State with a relatively warmer summer. To find the median of any odd series of numbers, the series is arranged in ascending order and the value that occurs in the middle of the series is chosen. The series relevant to F2 is odd because it consists of the 50 States and the District of Columbia. The median value occurs at the 26th observation (State). The median was chosen, rather than the mean, because of its characteristic of being "insensitive" to extreme values. States like Alaska and Florida tend to skew or pull the average towards one extreme or another. In calculating the heating and cooling ratios the current formula multiplies each State's HDD's by the national space heating consumption and its CDD's by the national air conditioning (cooling) consumption. The proposed formula simplifies this calculation by combining these two numbers into one by dividing cooling consumption by heating consumption (as reported in Table 28 of the Household Energy Consumption and Expenditures 1990). Each State's CDD

ratio is multiplied by this one number (which rounds to 0.1). The final climate factor for each State is then the sum of the HDD and CDD ratios.

Table 3 presents the data used to calculate the climate factor (F2) for each State.

*Table Explanation*

- Column A—State Name.
- Column B—State heating degree days (HDD) as reported by the NOAA.
- Column C—State HDD Ratio, calculated by dividing each State's HDD by the national median (5,429.9—as shown on the bottom of Table 2).
- Column D—State cooling degree days (CDD) as reported by the NOAA.
- Column E—State CDD divided by the national median (867.3—as shown on the bottom of Table 2).
- Column F—State CDD Ratio, calculated by multiplying Column E by the ratio of cooling consumption to heating consumption, which is 0.1.
- Column G—State Climate Factor (F2), calculated by summing each State's HDD and CDD ratios.

TABLE 3.—WEATHER DATA BY STATE

State A	Heating De- gree Days B	HDD ratio C	Cooling de- gree days D	CDD di- vided by the median E	CDD ratio F	Climate fac- tor (F2) G
Alabama .....	2,853.8	0.526	1,855.9	2.140	0.214	0.740
Alaska .....	11,475.2	2.113	1.9	0.002	0.000	2.114
Arizona .....	2,232.6	0.411	2,695.4	3.108	0.311	0.722
Arkansas .....	3,365.0	0.620	1,801.2	2.077	0.208	0.827
California .....	2,663.3	0.490	824.4	0.951	0.095	0.586
Colorado .....	7,264.0	1.338	280.4	0.323	0.032	1.370
Connecticut .....	6,122.4	1.128	526.6	0.607	0.061	1.188
Delaware .....	4,741.7	0.873	1,034.4	1.193	0.119	0.993
District of Columbia .....	4,785.7	0.881	1,008.5	1.163	0.116	0.998
Florida .....	715.6	0.132	3,365.1	3.880	0.388	0.520
Georgia .....	2,842.0	0.523	1,705.7	1.967	0.197	0.720

TABLE 3.—WEATHER DATA BY STATE—Continued

State A	Heating De- gree Days B	HDD ratio C	Cooling de- gree days D	CDD di- vided by the median E	CDD ratio F	Climate fac- tor (F2) G
Hawaii .....	0.0	0.000	3,528.0	4.068	0.407	0.407
Idaho .....	6,960.0	1.282	434.9	0.501	0.050	1.332
Illinois .....	6,254.3	1.152	894.3	1.031	0.103	1.255
Indiana .....	5,906.8	1.088	891.7	1.028	0.103	1.191
Iowa .....	6,894.6	1.270	867.3	1.000	0.100	1.370
Kansas .....	4,990.9	0.919	1,490.4	1.718	0.172	1.091
Kentucky .....	4,566.8	0.841	1,174.4	1.354	0.135	0.976
Louisiana .....	1,826.1	0.336	2,550.0	2.940	0.294	0.630
Maine .....	8,069.2	1.486	215.6	0.249	0.025	1.511
Maryland .....	4,785.7	0.881	1,008.5	1.163	0.116	0.998
Massachusetts .....	6,404.5	1.179	434.6	0.501	0.050	1.230
Michigan .....	6,837.5	1.259	565.7	0.652	0.065	1.324
Minnesota .....	8,687.0	1.600	487.3	0.562	0.056	1.656
Mississippi .....	2,549.5	0.470	2,094.4	2.415	0.241	0.711
Missouri .....	5,127.4	0.944	1,282.2	1.478	0.148	1.092
Montana .....	8,144.8	1.500	259.4	0.299	0.030	1.530
Nebraska .....	6,412.3	1.181	1,052.0	1.213	0.121	1.302
Nevada .....	4,260.1	0.785	1,572.0	1.813	0.181	0.966
New Hampshire .....	7,594.6	1.399	289.4	0.334	0.033	1.432
New Jersey .....	5,429.9	1.000	774.6	0.893	0.089	1.089
New Mexico .....	4,714.2	0.868	890.2	1.026	0.103	0.971
New York .....	5,960.8	1.098	641.4	0.740	0.074	1.172
North Carolina .....	3,492.2	0.643	1,366.3	1.575	0.158	0.801
North Dakota .....	9,382.8	1.728	471.7	0.544	0.054	1.782
Ohio .....	5,932.2	1.093	740.2	0.853	0.085	1.178
Oklahoma .....	3,593.3	0.662	1,941.6	2.239	0.224	0.886
Oregon .....	5,228.6	0.963	207.0	0.239	0.024	0.987
Pennsylvania .....	5,920.7	1.090	659.2	0.760	0.076	1.166
Rhode Island .....	5,942.0	1.094	457.2	0.527	0.053	1.147
South Carolina .....	2,768.2	0.510	1,787.0	2.060	0.206	0.716
South Dakota .....	7,613.7	1.402	804.6	0.928	0.093	1.495
Tennessee .....	4,005.8	0.738	1,337.5	1.542	0.154	0.892
Texas .....	2,039.7	0.376	2,623.2	3.025	0.302	0.678
Utah .....	6,451.3	1.188	694.7	0.801	0.080	1.268
Vermont .....	7,970.9	1.468	280.5	0.323	0.032	1.500
Virginia .....	4,402.4	0.811	1,052.4	1.213	0.121	0.932
Washington .....	5,636.0	1.038	174.9	0.202	0.020	1.058
West Virginia .....	5,271.5	0.971	766.5	0.884	0.088	1.059
Wisconsin .....	7,679.2	1.414	502.5	0.579	0.058	1.472
Wyoming .....	8,081.3	1.488	308.5	0.356	0.036	1.524
Median .....	5,429.9	.....	867.3	.....	.....	.....

**F3 Residential Energy Expenditure Factor**

The final factor, residential energy expenditures by low-income households was determined to be the closest

approximation, given available data, of the financial burden to low-income households of energy use. Based on the same reasoning as discussed for the climate factor, the national median is

used to calculate the State residential energy expenditure factors.

State Residential Energy Expenditure Factor

$$F3 = \frac{\text{State Low-Income Household Energy Expenditures}}{\text{National Median Low-Income Household Energy Expenditures}}$$

Due to the lack of State specific data on residential energy expenditures by low-income households, an estimate is calculated based on the published data that is available. Specifically, available residential energy expenditures data at the State level does not distinguish between low-income households and the overall population. Information on residential energy expenditures by low-

income households is available at the Census division level. The nine Census divisions including the States contained therein are shown below. Comparing each State's average household residential energy expenditures with the average household residential energy expenditures at its Census division level provides a means of allocating the Census division low-income residential

energy expenditures to each State within that division.

Census division	State abbreviations
Northeast (NE) .....	CT, MA, ME, NH, RI, VT
Mid-Atlantic (MA) .....	NJ, NY, PA
South Atlantic (SA) ...	DC, DE, MD, VA, WV
East North Central (ENC).	IL, IN, MI, OH, WI

Census division	State abbreviations
East South Central (ESC).	AL, KY, MS, TN
West North Central (WNC).	IA, KS, MN, MO, ND, NE, SD
West South Central (WSC).	AR, LA, OK, TX
Mountain (MN) .....	AZ, CO, ID, MT, NM, NV, UT, WY
Pacific (PAC) .....	AK, CA, HI, OR, WA

Table 4, set forth below, presents the data used to calculate the residential energy expenditures factor for each State.

**Table Explanation**

Column A—State Abbreviation.  
 Column B—Census Division Abbreviation.

Column C—Residential Energy Expenditures by State (State EE) is published in the EIA's State Energy Price and Expenditure Report 1990 (SEPER). Data is expressed in millions of dollars.

Column D—Residential Energy Expenditures by Census division (Div EE) is the sum of the State data in Column C for each Census division. Data is expressed in millions of dollars.

Column E—Number of Households per State (State #HH) was obtained from the Bureau of the Census' U.S. Summary of General Housing Characteristics, 1990 Census.

Column F—Number of Households per Census division (Division #HH) is the sum of the State data in Column E for each Census division.

Column G—Residential Energy Expenditures per Low-Income Household for each State's Census division (Division EE/#LIHH) is published in the EIA's Household Energy Consumption and Expenditures 1990—Supplement: Regional.

Column H—The ratio of each State's Residential Energy Expenditures per Household (State EE/#HH) over the Residential Energy Expenditures per Household for each State's Census division (Division EE/#HH) is calculated as follows:

Column I—Residential Energy Expenditures per Low-Income Household by State (State EE/#LIHH) is calculated from columns C through G as follows:

$$\text{Column H} = \frac{\text{Column C/Column E}}{\text{Column D/Column F}}$$

Column J—"Residential Energy Expenditure Factor (F3)" is calculated by dividing the estimate of residential energy expenditures per low-income households for each State by the national median (\$991.6).

TABLE 4.—RESIDENTIAL ENERGY EXPENDITURE FACTOR DETAILS

State abbrev. A	Census division B	Residential energy expenditures (by State) (million \$) C	Residential energy expenditures (for census division) (million \$) D	Households (by State) E	Households (for census division) F	Residential energy expenditures per low-income household (for Division) G	Ratio of state energy expenditure per household to division energy expenditure per household H	Residential energy expenditures per low-income household (by State) I	Expenditure factor (F3) J
CT .....	NE	\$1,981.6	\$7,351.8	1,230,479	4,942,714	\$1,150.0	1.083	\$1,245.1	1.256
MA .....	NE	\$3,243.9	\$7,351.8	2,247,110	4,942,714	\$1,150.0	0.971	\$1,116.1	1.126
ME .....	NE	\$666.0	\$7,351.8	465,312	4,942,714	\$1,150.0	0.962	\$1,106.6	1.116
NH .....	NE	\$621.3	\$7,351.8	411,186	4,942,714	\$1,150.0	1.016	\$1,168.2	1.178
RI .....	NE	\$502.8	\$7,351.8	377,977	4,942,714	\$1,150.0	0.894	\$1,028.5	1.037
VT .....	NE	\$336.2	\$7,351.8	210,650	4,942,714	\$1,150.0	1.073	\$1,234.0	1.244
NJ .....	MA	\$3,881.6	\$18,528.9	2,794,711	13,929,999	\$1,157.0	1.044	\$1,208.1	1.218
NY .....	MA	\$8,526.0	\$18,528.9	6,639,322	13,929,999	\$1,157.0	0.965	\$1,117.0	1.127
PA .....	MA	\$6,121.3	\$18,528.9	4,495,966	13,929,999	\$1,157.0	1.024	\$1,184.3	1.194
DC .....	SA	\$208.1	\$19,120.1	249,634	16,503,063	\$988.0	0.720	\$710.9	0.717
DE .....	SA	\$346.7	\$19,120.1	247,497	16,503,063	\$988.0	1.209	\$1,194.6	1.205
FL .....	SA	\$5,888.6	\$19,120.1	5,134,869	16,503,063	\$988.0	0.990	\$977.9	0.986
GA .....	SA	\$2,990.0	\$19,120.1	2,366,615	16,503,063	\$988.0	1.090	\$1,077.4	1.087
MD .....	SA	\$2,090.8	\$19,120.1	1,748,991	16,503,063	\$988.0	1.032	\$1,019.4	1.028
NC .....	SA	\$3,226.4	\$19,120.1	2,517,026	16,503,063	\$988.0	1.106	\$1,093.1	1.102
SC .....	SA	\$1,573.1	\$19,120.1	1,258,044	16,503,063	\$988.0	1.079	\$1,066.3	1.075
VA .....	SA	\$2,796.4	\$19,120.1	2,291,830	16,503,063	\$988.0	1.053	\$1,040.5	1.049
WV .....	SA	\$714.8	\$19,120.1	688,557	16,503,063	\$988.0	0.896	\$885.3	0.893
IL .....	ENC	\$5,650.6	\$19,424.2	4,202,240	15,596,590	\$1,074.0	1.080	\$1,159.6	1.169
IN .....	ENC	\$2,503.3	\$19,424.2	2,065,355	15,596,590	\$1,074.0	0.973	\$1,045.2	1.054
MI .....	ENC	\$4,097.2	\$19,424.2	3,419,331	15,596,590	\$1,074.0	0.962	\$1,033.3	1.042
OH .....	ENC	\$5,085.2	\$19,424.2	4,087,546	15,596,590	\$1,074.0	0.999	\$1,072.8	1.082
WI .....	ENC	\$2,087.9	\$19,424.2	1,822,118	15,596,590	\$1,074.0	0.920	\$988.2	0.997
AL .....	ESC	\$1,777.1	\$6,157.9	1,506,790	5,651,671	\$772.0	1.082	\$835.6	0.843
KY .....	ESC	\$1,354.2	\$6,157.9	1,379,782	5,651,671	\$772.0	0.901	\$695.4	0.701
MS .....	ESC	\$1,053.3	\$6,157.9	911,374	5,651,671	\$772.0	1.061	\$818.9	0.826
TN .....	ESC	\$1,973.3	\$6,157.9	1,853,725	5,651,671	\$772.0	0.977	\$754.2	0.761
IA .....	WNC	\$1,281.3	\$7,742.7	1,064,325	6,720,385	\$968.0	1.045	\$1,011.5	1.020
KS .....	WNC	\$1,099.5	\$7,742.7	944,726	6,720,385	\$968.0	1.010	\$977.8	0.986
MN .....	WNC	\$1,745.8	\$7,742.7	1,647,853	6,720,385	\$968.0	0.920	\$890.1	0.898
MO .....	WNC	\$2,363.1	\$7,742.7	1,961,206	6,720,385	\$968.0	1.046	\$1,012.4	1.021
ND .....	WNC	\$281.8	\$7,742.7	240,878	6,720,385	\$968.0	1.015	\$982.9	0.991

TABLE 4.—RESIDENTIAL ENERGY EXPENDITURE FACTOR DETAILS—Continued

State abbrev. A	Census division B	Residential energy ex- penditures (by State) (million \$) C	Residential energy ex- penditures (for census division) (million \$) D	House- holds (by State) E	House- holds (for census di- vision) F	Residential energy ex- penditures per low-in- come household (for Divi- sion) G	Ratio of state en- ergy ex- penditure per house- hold to di- vision en- ergy ex- penditure per house- hold H	Residential energy ex- penditures per low-in- come household (by State) I	Expendi- ture factor (F3) J
NE	WNC	\$648.4	\$7,742.7	602,363	6,720,385	\$968.0	0.934	\$904.4	0.912
SD	WNC	\$322.8	\$7,742.7	259,034	6,720,385	\$968.0	1.082	\$1,047.0	1.056
AR	WSC	\$1,125.1	\$11,951.9	891,179	9,667,520	\$971.0	1.021	\$991.6	1.000
LA	WSC	\$1,945.3	\$11,951.9	1,499,269	9,667,520	\$971.0	1.050	\$1,019.1	1.028
OK	WSC	\$1,477.6	\$11,951.9	1,206,135	9,667,520	\$971.0	0.991	\$962.2	0.970
TX	WSC	\$7,403.9	\$11,951.9	6,070,937	9,667,520	\$971.0	0.986	\$957.9	0.966
AZ	MT	\$1,623.4	\$5,169.9	1,368,843	5,033,336	\$888.0	1.155	\$1,025.3	1.034
CO	MT	\$1,153.3	\$5,169.9	1,282,489	5,033,336	\$888.0	0.876	\$777.5	0.784
ID	MT	\$354.7	\$5,169.9	360,723	5,033,336	\$888.0	0.957	\$850.1	0.857
MT	MT	\$301.1	\$5,169.9	306,163	5,033,336	\$888.0	0.957	\$850.2	0.857
NM	MT	\$536.6	\$5,169.9	542,709	5,033,336	\$888.0	0.963	\$854.8	0.862
NV	MT	\$462.0	\$5,169.9	466,297	5,033,336	\$888.0	0.965	\$856.6	0.864
UT	MT	\$559.1	\$5,169.9	537,273	5,033,336	\$888.0	1.013	\$899.7	0.907
WY	MT	\$179.7	\$5,169.9	168,839	5,033,336	\$888.0	1.036	\$920.2	0.928
AK	PAC	\$342.4	\$13,097.3	188,915	13,902,132	\$676.0	1.924	\$1,300.5	1.312
CA	PAC	\$9,892.5	\$13,097.3	10,381,206	13,902,132	\$676.0	1.011	\$683.8	0.690
HI	PAC	\$255.6	\$13,097.3	356,267	13,902,132	\$676.0	0.762	\$514.8	0.519
OR	PAC	\$966.2	\$13,097.3	1,103,313	13,902,132	\$676.0	0.930	\$628.4	0.634
WA	PAC	\$1,640.6	\$13,097.3	1,872,431	13,902,132	\$676.0	0.930	\$628.7	0.634

The underlying assumption in the calculation of State residential energy expenditures per low-income household is that the relationship between a State's residential energy expenditures per household and its respective divisional residential energy expenditures per household is the same for its low-income population as it is for its general population. If State Y's average household spends twice the money on its residential energy compared to the average household in its Census division, then it is assumed that the low-income households in State Y will also spend twice the money on residential energy than the average low-income household in its division. For example, assume State Y's residential energy expenditures per general household is \$2,000 and the average residential energy expenditures per general household in its division is

\$1,000. If the average residential energy expenditures per low-income households for the division is \$800, then the residential energy expenditures per low-income household for State Y would be \$1,600.

**Formula Share**

The above factors are combined into a single formula by multiplying the percent of low-income households (F1) in each State by the climate factor (F2) and the residential energy expenditures factor (F3) for that State. For explanation purposes, the result of applying the formula to a given State will now be called the State's weight (SW), as follows:  
SW=F1×F2×F3.

These State-by-State calculations do not necessarily sum to one. As a result, each State's weight must be divided by the national total of each State's weight

to obtain the State's Formula Share, as follows:

$$\text{State's Formula Share} = \frac{\text{State's Weight}}{\text{National Total}}$$

Table 5 shows the three factors (from the previous tables) for each State along with each State's weight and Formula Share.

*Table Explanation*

- Column A—State Name.
- Column B—State's Population Factor (F1).
- Column C—State's Climatic Factor (F2).
- Column D—State's Residential Energy Expenditures Factor (F3).
- Column E—State's Weight—F1×F2×F3.
- Column F—State's Formula Share—State's weight (Column E) divided by the national total (the sum of Column E).

TABLE 5.—FORMULA FACTORS, WEIGHT AND FORMULA SHARE BY STATE

State A	F1 B	F2 C	F3 D	Weight E	Formula share F
Alabama	2.381	0.740	0.843	1.484	0.0155
Alaska	0.134	2.114	1.312	0.371	0.0039
Arizona	1.609	0.722	1.034	1.201	0.0125
Arkansas	1.480	0.827	1.000	1.224	0.0127
California	9.396	0.586	0.690	3.794	0.0395
Colorado	1.269	1.370	0.784	1.364	0.0142

TABLE 5.—FORMULA FACTORS, WEIGHT AND FORMULA SHARE BY STATE—Continued

State A	F1 B	F2 C	F3 D	Weight E	Formula share F
Connecticut .....	0.742	1.188	1.256	1.108	0.0115
Delaware .....	0.191	0.993	1.205	0.229	0.0024
District of Columbia .....	0.286	0.998	0.717	0.205	0.0021
Florida .....	5.420	0.520	0.986	2.779	0.0289
Georgia .....	2.907	0.720	1.087	2.274	0.0237
Hawaii .....	0.252	0.407	0.519	0.053	0.0006
Idaho .....	0.426	1.332	0.857	0.487	0.0051
Illinois .....	4.051	1.255	1.169	5.945	0.0619
Indiana .....	2.018	1.191	1.054	2.533	0.0264
Iowa .....	1.134	1.370	1.020	1.584	0.0165
Kansas .....	1.010	1.091	0.986	1.086	0.0113
Kentucky .....	2.204	0.976	0.701	1.509	0.0157
Louisiana .....	2.725	0.630	1.028	1.765	0.0184
Maine .....	0.495	1.511	1.116	0.834	0.0087
Maryland .....	1.212	0.998	1.028	1.244	0.0130
Massachusetts .....	1.930	1.230	1.126	2.672	0.0278
Michigan .....	3.687	1.324	1.042	5.089	0.0530
Minnesota .....	1.523	1.656	0.898	2.264	0.0236
Mississippi .....	1.815	0.711	0.826	1.066	0.0111
Missouri .....	2.328	1.092	1.021	2.596	0.0270
Montana .....	0.422	1.530	0.857	0.553	0.0058
Nebraska .....	0.645	1.302	0.912	0.766	0.0080
Nevada .....	0.400	0.966	0.864	0.333	0.0035
New Hampshire .....	0.267	1.432	1.178	0.451	0.0047
New Jersey .....	1.869	1.089	1.218	2.480	0.0258
New Mexico .....	0.836	0.971	0.862	0.699	0.0073
New York .....	7.011	1.172	1.127	9.255	0.0964
North Carolina .....	3.014	0.801	1.102	2.660	0.0277
North Dakota .....	0.315	1.782	0.991	0.556	0.0058
Ohio .....	4.347	1.178	1.082	5.540	0.0577
Oklahoma .....	1.755	0.886	0.970	1.508	0.0157
Oregon .....	1.180	0.987	0.634	0.738	0.0077
Pennsylvania .....	4.467	1.166	1.194	6.224	0.0648
Rhode Island .....	0.352	1.147	1.037	0.419	0.0044
South Carolina .....	1.693	0.716	1.075	1.303	0.0136
South Dakota .....	0.351	1.495	1.056	0.554	0.0058
Tennessee .....	2.580	0.892	0.761	1.750	0.0182
Texas .....	8.289	0.678	0.966	5.430	0.0565
Utah .....	0.547	1.268	0.907	0.629	0.0066
Vermont .....	0.201	1.500	1.244	0.375	0.0039
Virginia .....	2.057	0.932	1.049	2.012	0.0210
Washington .....	1.731	1.058	0.634	1.161	0.0121
West Virginia .....	1.138	1.059	0.893	1.076	0.0112
Wisconsin .....	1.722	1.472	0.997	2.527	0.0263
Wyoming .....	0.187	1.524	0.928	0.264	0.0027
National total .....	.....	.....	.....	96.022	1.0000

Each State's share of the "Formula Allocation" is then calculated by multiplying the total "Formula Allocation" by each State's "Formula Share".

Proposed § 440.10(b) maintains the current capacity of States to deliver weatherization services and sustains the strong network developed for this purpose by minimizing the impact of the proposed formula change on colder-weather States. Those States would otherwise face layoffs of weatherization crews that would severely restrict their ability to provide reasonable weatherization services to their low-income residents.

Any increase in funds at or above the fiscal year 1995 total program allocations level will be allocated according to the proposed formula. Should total program allocations fall below the fiscal year 1995 level each State's program allocation would be reduced from its fiscal year 1995 level by the same percentage. For example, if total program allocations for a given year were to fall 10 percent below the fiscal year 1995 level, this would result in an across the board reduction of 10 percent for each State from its fiscal year 1995 program allocation. The rationale for this provision is to distribute the effect of lower appropriations equitably.

DOE proposes to add § 440.10(d) to clarify the sources of data used in the proposed formula. All sources of data are publicly available.

Section 440.10(e) is proposed to alert States of possible impacts on their weatherization programs which may occur due to changes in data. In any given program year where changes occur, DOE is proposing to delay reallocations based on new data until the following year. This will allow States to plan for anticipated shifts in funds and develop alternative strategies for minimizing the impact of such a change.

## Opportunity for Public Comment

### A. Written Comment Procedures

Interested persons, organizations and State governments are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the matters set forth in this notice to the address indicated at the beginning of this notice.

Comments (6 copies) should be identified on the envelope and on the documents themselves with the designation: "WAP Rulemaking, EE-RM-95-401, and must be received by the date specified at the beginning of this notice. Six copies should be submitted. Additionally, the Department would appreciate an electronic copy of the comments to the extent possible. The Department is currently using Wordperfect 5.1. All comments received by the dates specified at the beginning of this notice and other information will be considered by DOE in the final rule. In the event any person wishing to submit a written comment cannot provide six copies, alternative arrangements can be made in advance with the Hearings and Dockets Office.

All comments received will be available for public inspection in the DOE Freedom of Information Office Reading Room at the address indicated at the beginning of this notice.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which that person believes to be confidential and which may be exempt by law from public disclosure, should submit one complete copy as well as two copies from which the information claimed to be confidential has been deleted. DOE shall make its own determination with regard to the confidential status of the information or data and treat it accordingly to its determination.

### B. Public Hearing Procedures

DOE will hold two public hearings on this proposed rule. The hearing will be held on the date and at the locations indicated at the beginning of this notice. 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 request an opportunity to make an oral presentation. A request to speak at a hearing should be addressed to the address or phone number indicated at the beginning of this notice.

The person making the request should briefly describe his or her interest in the proceedings and, if appropriate, state why that person is a proper representative of a group. The person

should also provide a phone number where he or she may be reached during the day. Persons selected to be heard at a public hearing will be notified as to the approximate time they will be speaking. They should bring seven copies of their statement to the hearing. In the event any person wishing to testify cannot meet this requirement, alternative arrangements can be made in advance by so indicating in the letter or phone call requesting an opportunity to make an oral presentation.

DOE reserves the right to select persons to be heard at the hearings, to schedule their presentations, and to establish procedures governing the conduct of the hearing. The length of each presentation will be limited to twenty minutes, or based on the number of persons requesting to speak.

A DOE official will preside at the hearing. This will not be a judicial or evidentiary-type hearing but will be conducted in accordance with 5 U.S.C. 553 and § 336 of the DOE Organization Act, 42 U.S.C. 7191. At the conclusion of all initial oral statements, if time permits, each person may be given the opportunity to make a rebuttal or clarifying statement. These statements will be given in the order in which the initial statements were made and will be limited to five minutes each.

Any participant who wishes to ask a question of a speaker at the hearing may submit the question in writing to the registration desk. The presiding officer will determine whether the question is relevant and material and whether time limitations permit it to be presented for an 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 Office Reading Room at the address indicated at the beginning of this notice. Any person may purchase a copy of the transcript from the hearing reporter.

If DOE must cancel a hearing, DOE will make every effort to publish an advance notice of such cancellation in the **Federal Register**. Notice of cancellation will also be given to all persons scheduled to speak at the hearing. Hearing dates may be canceled in the event no public testimony has been scheduled in advance.

## IV. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a significant regulatory action under Executive Order 12866. Accordingly, today's action was not subject to review under the Executive Order by the Office of Management and Budget.

## V. Review Under Executive Order 12778

Section 2 of E.O. 12778 instructs each agency to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in Sections 2 (a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulation to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation: specifies clearly any preemptive effect, any effect on existing Federal law or regulation, and any retroactive effect; describes any administrative proceedings to be available to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. DOE certifies that today's proposed regulation meets the requirements of §§ 2 (a) and (b) of E.O. 12778.

## VI. Review Under Executive Order 12612

Executive Order 12612 requires that regulations be reviewed for any substantial direct effects on States, on the relationship between the national Government and the States, or on the distribution of power among various levels of Government. If there are sufficient substantial direct effects, the Executive Order requires preparation of a federalism assessment to be used in decisions by senior policymakers in promulgating or implementing the regulation.

Today's regulatory action will not have a substantial direct effect on the traditional rights and prerogatives of States in relationship to the Federal Government. Preparation of a federalism assessment is therefore unnecessary.

## VII. Review Under the Regulatory Flexibility Act

The proposed regulations were reviewed under the Regulatory Flexibility Act, Pub. L. 96-354, which requires preparation of a regulatory flexibility analysis for any proposed regulation that will have a significant economic impact on a substantial

number of small entities, i.e., small businesses and small government jurisdictions. DOE has concluded that the proposed rule will affect the States and local agencies operating weatherization programs, especially in the warmer-weather States which will receive more funding. The incremental effect of the proposed changes relates to the distribution of approximately \$20 million. Thus this incremental effect when spread among all of the States and the District of Columbia will not have a significant impact on a substantial number of small entities. Therefore, DOE certifies that there will not be a significant economic impact on a substantial number of small entities and that preparation of a regulatory flexibility analysis is not warranted.

**VIII. Review Under the Paperwork Reduction Act**

No new information collection or recordkeeping requirements are imposed on the public by today's proposed rules. Accordingly, no OMB clearance is required under the Paperwork Reduction Act, 44 U.S.C. 3501, et seq., or implementing regulations at 5 CFR Part 1320.

**IX. Review Under National Environmental Policy Act**

The rule proposes changes to the current formula used to distribute funds among the States pursuant to the regulations for the Weatherization Assistance Program for Low-Income Persons. Over the years many warmer-weather States have maintained that the current formula over allocates funds to colder-weather States. The purpose of the proposed formula is to increase the overall equity among the States. Since this proposed rule deals only with the manner in which funds will be allocated among the States, the Department has therefore determined that this proposed rule is covered under the Categorical Exclusion found at paragraph A6 of Appendix A to Subpart D, 10 CFR Part 1021, which applies to the establishment of procedural rulemakings. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

**X. Other Federal Agencies**

DOE provided draft copies of the proposed rule to the Department of Health and Human Services Low-Income Home Energy Assistance Program and the Department of Agriculture Farmers Home Administration. No comments have been received. DOE also provided a draft copy to the Administrator of the

Environmental Protection Agency, pursuant to § 7 of the Federal Energy Administration Act, as amended, 15 U.S.C. 766. The Administrator has not made any comment.

**XI. The Catalog of Federal Domestic Assistance**

The *Catalog of Federal Domestic Assistance* number for the Weatherization Assistance Program for Low-Income Persons is 81.042.

**List of Subjects in 10 CFR Part 440**

Administrative practice and procedure, aged, energy conservation, grant programs-energy, grant programs-housing and community development, handicapped, housing standards, Indians, reporting and recordkeeping requirements, and weatherization.

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**Christine A. Ervin,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

For the reasons set forth in the preamble, DOE hereby proposes to amend Chapter II of Title 10, Code of Federal Regulations, as set forth below:

**PART 440—WEATHERIZATION ASSISTANCE PROGRAM FOR LOW-INCOME PERSONS**

1. The authority citation for part 440 is revised to read as follows: 42 U.S.C. 6861-6871; 42 U.S.C. 7191.

2. In § 440.3, remove the definitions for "Number of Low-Income, Owner-Occupied Dwelling Units in the State"; "Number of Low-Income Renter-Occupied Dwelling Units in the State"; "Percentage of Total Residential Energy Used for Space Cooling"; "Percentage of Total Residential Energy Used for Space Heating"; and add the following definitions in alphabetical order to read as follows.

**§ 440.3 Definitions.**

\* \* \* \* \*

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

\* \* \* \* \*

*Formula Allocation* means the amount of funds received by each State based on the formula as calculated 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).

\* \* \* \* \*

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

\* \* \* \* \*

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

\* \* \* \* \*

*Total Program Allocations* means the annual appropriation less funds reserved for training and technical assistance.

\* \* \* \* \*

3. Section 440.10 is revised to read as follows:

**§ 440.10 Allocation of funds.**

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

(b) Based on total program allocations at or above the 1995 level, DOE shall determine the program allocation for each State from available funds as follows:

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

TABLE 1

Alabama .....	1,636,000
Alaska .....	1,425,000
Arkansas .....	1,417,000
Arizona .....	760,000
California .....	4,404,000
Colorado .....	4,574,000
Connecticut .....	1,887,000
Delaware .....	409,000
District of Columbia .....	487,000
Florida .....	761,000
Georgia .....	1,844,000
Hawaii .....	120,000
Idaho .....	1,618,000
Illinois .....	10,717,000
Indiana .....	5,156,000
Iowa .....	4,032,000
Kansas .....	1,925,000
Kentucky .....	3,615,000
Louisiana .....	912,000
Maine .....	2,493,000
Maryland .....	1,963,000
Massachusetts .....	5,111,000
Michigan .....	12,346,000
Minnesota .....	8,342,000
Mississippi .....	1,094,000
Missouri .....	4,615,000
Montana .....	2,123,000
Nebraska .....	2,013,000
Nevada .....	586,000
New Hampshire .....	1,193,000
New Jersey .....	3,775,000
New Mexico .....	1,519,000
New York .....	15,302,000
North Carolina .....	2,853,000
North Dakota .....	2,105,000
Ohio .....	10,665,000
Oklahoma .....	1,846,000
Oregon .....	2,320,000
Pennsylvania .....	11,457,000
Rhode Island .....	878,000
South Carolina .....	1,130,000
South Dakota .....	1,561,000
Tennessee .....	3,218,000
Texas .....	2,999,000
Utah .....	1,692,000

TABLE 1—Continued

Vermont .....	1,014,000
Virginia .....	2,970,000
Washington .....	3,775,000
West Virginia .....	2,573,000
Wisconsin .....	7,061,000
Wyoming .....	967,000
Total .....	171,258,000

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

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

(i) 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 paragraphs (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 paragraphs (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 the total program allocations for fiscal year 1995, then each State's program allocation shall be reduced from its fiscal year 1995 amount by the same percentage as total program allocations for the fiscal year fall below the total program allocations for fiscal year 1995.

(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.

4. Section 440.12 is amended by revising paragraph (b)(4) to read as follows:

**§ 440.12 State application.**

\* \* \* \* \*

(b) \* \* \*

(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. Section 440.14 is amended by revising paragraph (b)(9)(vi) to read as follows:

**§ 440.14 State plans.**

\* \* \* \* \*

(b) \* \* \*

(9) \* \* \*

(vi) The amount of weatherization grant funds allocated to the State under this part;

\* \* \* \* \*