

reduced rate for the Board to meet its anticipated expenses.

Major expenditures in the budget recommended by the Board for the 2001–02 year include \$2,566,569 for marketing and production research projects, \$313,200 for employee expenses such as administrative and office salaries, payroll taxes and benefits, \$130,600 for office expenses, including rent, telephone/fax, postage, printing, furniture, fixtures, and automobile, \$76,000 for other operating expenses, including management and field travel, insurance, and audit fees, and \$38,431 as a reserve for contingency. Budgeted expenses for these items in 2000–01 were \$2,450,255 for marketing and production research projects, \$278,630 for employee expenses, \$104,000 for office expenses, \$80,000 for other operating expenses, and \$25,000 as a reserve for a contingency, respectively.

Prior to arriving at this budget, the Board considered information from various sources, such as the Board's Budget and Personnel Committee, Research Committee, and Marketing Development Committee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research projects to the walnut industry. The recommended \$0.0124 per kernelweight pound assessment rate was then determined by dividing the total recommended budget by the 252,000,000 kernelweight pound estimate of assessable walnuts for the year. Unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within 5 months after the end of the year (§ 984.69).

A review of historical information and preliminary information pertaining to the current marketing year indicates that the grower price for 2001–02 could range between \$0.50 and \$0.70 per kernelweight pound of assessable walnuts. Therefore, the estimated assessment revenue for the 2001–02 year as a percentage of total grower revenue could range between 1.7 and 2.5 percent.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Board's meeting was widely publicized throughout the walnut industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all

issues. Like all Board meetings, the September 7, 2001, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large California walnut handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2001–02 marketing year began on August 1, 2001, and the order requires that the rate of assessment for each marketing year apply to all merchantable walnuts handled during the year; (2) this action decreases the assessment rate for merchantable California walnuts; (3) handlers are aware of this action which was unanimously recommended by the Board at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

#### List of Subjects in 7 CFR Part 984

Walnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 984 is amended as follows:

#### PART 984—WALNUTS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 984 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 984.347 is revised to read as follows:

#### § 984.347 Assessment rate.

On and after August 1, 2001, an assessment rate of \$0.0124 per kernelweight pound is established for California merchantable walnuts.

Dated: November 15, 2001.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 01–29114 Filed 11–20–01; 8:45 am]

**BILLING CODE 3410–02–P**

#### DEPARTMENT OF ENERGY

#### Office of Energy Efficiency and Renewable Energy

#### 10 CFR Part 440

#### RIN 1904–AB05

#### Weatherization Assistance Program for Low-Income Persons

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Final rule.

**SUMMARY:** The Department of Energy adopts, with changes, the interim final rule published in the **Federal Register** on December 8, 2000, to amend the Weatherization Assistance Program for Low-Income Persons. This final rule also incorporates certain statutory amendments which were discussed in the preamble of the interim final rule published on December 8, 2000.

**EFFECTIVE DATE:** November 21, 2001.

**FOR FURTHER INFORMATION CONTACT:** Greg Reamy, Office of Building Technology Assistance, U.S. Department of Energy, Mail Stop EE–42, 5E–066, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4074.

#### SUPPLEMENTARY INFORMATION:

- I. Introduction
- II. Amendments to the Weatherization Assistance Program
- III. Procedural Requirements
- IV. Other Federal Agencies
- V. The Catalog of Federal Domestic Assistance

## I. Introduction

The Department of Energy (DOE or Department) amends the program regulations for the Weatherization Assistance Program for Low-Income Persons (WAP or Program). This Program is authorized by Title III of the Energy Conservation and Production Act, as amended (Act), 42 U.S.C. 6561 *et seq.* The changes are necessitated by the statutory amendments enacted by the Congress on November 9, 2000, as part of the Energy Policy and Conservation Act Amendments of 2000. These statutory changes: (1) Eliminate the requirement in § 440.18 that 40 percent of the funds used to weatherize a home be spent for materials; (2) restructure the method in § 440.18 by which States compute their average cost per home by increasing the average cost per home to \$2,500 beginning in 2000; and (3) eliminate the separate per dwelling unit average in § 440.18 for capital intensive improvements and include capital intensive costs as a part of the average costs.

In the preamble of the December 8, 2000, interim final rule, DOE indicated that it intended to include a discussion of the program regulations in the final rule. This discussion was intended to explain and clarify areas of the regulations where no changes were made. This discussion was to provide States and local agencies background information on the existing program regulations as well as some of the discussion used in the preambles of previous rulemakings, since many State and local staffs have changed several times over the years and much institutional knowledge has been lost. DOE has decided not to provide this information in this final rule, but rather through program guidance documents. DOE has also amended, as necessary, other sections in the regulations which reference the principal sections that were affected.

## II. Amendments to the Weatherization Assistance Program

### Section 440.14 State Plans

DOE eliminates § 440.14(c)(6)(ix) referring to the 40 percent materials requirement.

### Section 440.18 Allowable Expenditures

DOE eliminates § 440.18(a) referring to the 40 percent materials requirement and the need for a waiver. This provision was deleted from the statute as part of the Energy Policy and Conservation Act Amendments of 2000. DOE changes new § 440.18(a) and (b) by

increasing the average cost per home to \$2,500 beginning in 2000.

DOE eliminates the separate per dwelling unit average by deleting § 440.18(a)(ii)(2) for capital intensive improvements and now includes capital intensive costs as a part of the average cost per home.

## III. Procedural Requirements

### A. Review Under Executive Order 12866

Today's final rule has been determined not to be "a significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

### B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. DOE published an interim final rulemaking to amend 10 CFR part 440 to give State and local agencies additional flexibility in addressing the weatherization needs of low-income citizens and to make other changes designed to streamline and update DOE's Weatherization Assistance Program. The interim final rule, and the preceding proposed rule, were developed following extensive consultation with State and local stakeholders and after reviewing comments received. DOE said that the previous interim final rule and the preceding proposed rule would not have any adverse economic impact on small governments, organizations or businesses. Accordingly, DOE certifies that the final rule, as promulgated, will not have a significant economic impact on a substantial number of small entities.

### C. Review Under the Paperwork Reduction Act

No new collection of information is imposed by this final rule. Accordingly, no clearance by the Office of Management and Budget is required under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

### D. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this final rule falls into a class of

actions that would not individually or cumulatively have a significant impact on the human environment, as determined by DOE regulations implementing the National Environmental Policy Act of 1969, (42 U.S.C. 4321 *et seq.*) Specifically, this final rule is covered under the Categorical Exclusion in paragraph A5 to subpart D, 10 CFR part 1021, which covers rulemakings that interpret or amend an existing regulation without changing the environmental effect of the regulation. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

### E. Review Under Executive Order 13132

Executive Order 13132 (64 FR 43255, August 10, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined today's final rule and has determined that it does not preempt State law and does not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

### F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses

other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

#### G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires each Federal agency to prepare a written assessment of the effects of any Federal mandate in a proposed or final rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million in any one year. The Act also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and tribal governments on a proposed "significant intergovernmental mandate," and it requires an agency to develop a plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirement that might significantly or uniquely affect small governments. The final rule published today does not contain any Federal mandate, so these requirements do not apply.

#### H. Review Under the Treasury and General Government Appropriations Act

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105-277) requires Federal agencies to issue a Family Policymaking Assessment for any rule or policy that may affect family well-being. Today's final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

#### I. Review Under Small Business Regulatory Enforcement Fairness Act of 1996

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of the rule prior to its effective date. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 804(3).

#### IV. Other Federal Agencies

DOE provided draft copies of the final rule to the Department of Health and Human Services' Low-Income Home Energy Assistance Program and the Department of Agriculture's Farmers Home Administration. We have received no comments. 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 made no comments.

#### V. 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, Housing standards, Indians, Individuals with disabilities, Reporting and recordkeeping requirements, Weatherization.

Issued in Washington, DC, on November 7, 2001.

#### David K. Garman,

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

Accordingly, the interim rule amending 10 CFR Part 440 which was published at 65 FR 77210 on December 8, 2000, is adopted as a final rule with the following changes:

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

1. The authority citation for part 440 continues to read as follows:

**Authority:** 42 U.S.C. 6861 *et seq.*, 42 U.S.C. 7101 *et seq.*

#### § 440.14 [Amended]

2. In § 440.14 paragraph (c)(6)(ix) is removed and reserved.

#### § 440.18 [Amended]

3. In § 440.18

a. Revise paragraph (a) and remove paragraphs (b) introductory text and (b)(2);

b. Redesignate paragraph (b)(1) introductory text as paragraph (b) introductory text and revise it; and

c. Redesignate paragraphs (b)(1)(i) and (ii) introductory text as paragraphs (b)(1) and (2) introductory text, and redesignate paragraphs (b)(1) (ii)(A) and (B) as paragraphs (b)(2)(i) and (ii):

#### § 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 \$2,500 per dwelling unit weatherized in the State, except as adjusted in paragraph (b) of this section.

(b) The \$2,500 average will be adjusted annually by DOE beginning in calendar year 2000 by increasing the limitation by an amount equal to:

\* \* \* \* \*

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#### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2001-CE-35-AD; Amendment 39-12507; AD 2001-23-10]

RIN 2120-AA64

#### Airworthiness Directives; Raytheon Aircraft Company 33, T-34, 35, 36, 55, 56, 58, and 95 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that applies to certain Raytheon Aircraft Company (Raytheon) 33, T-34, 35, 36, 55, 56, 58, and 95 Series airplanes. This AD requires you to inspect the left-hand and right-hand flap flex shaft assemblies to determine the manufacture date. This AD also requires you to replace any flap flex shaft assemblies manufactured from January 2000 through April 2001. This AD is the result four separate reports of flap drive cable separation. The actions specified by this AD are intended to prevent separation of the flap flex shaft assembly caused by improper heat treatment. Such a condition could lead to an asymmetric flap condition, resulting in uncommanded roll of the airplane.

**DATES:** This AD becomes effective on December 13, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of December 13, 2001.

The Federal Aviation Administration (FAA) must receive any comments on this rule on or before January 12, 2002.