

CCC or for which approval is sought. The terms and conditions of such fees will be set forth in the applicable agreement.

#### **§ 1423.13 Appeals, suspensions, and debarment.**

(a) After initial approval, warehouse operators may request that CCC reconsider adverse actions when the warehouse operator establishes that the reasons for the action have been remedied or requests reconsideration of the action and presents to the Director, KCCO, in writing, information in support of such request. The warehouse operator may, if dissatisfied with the Director's determination, obtain a review of the determination and an informal hearing by submitting a request to the Deputy Administrator. Appeals shall be as prescribed in part 780 of this title, and under such regulations the warehouse operator shall be considered as a "participant."

(b) Suspension and debarment actions taken under this part shall be conducted in accordance with part 1407 of this chapter. After expiration of the suspension or debarment period, a warehouse operator may, at any time, apply for approval under this part.

Signed at Washington, DC, on June 7, 2006.

**Glen L. Keppy,**  
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. E6-9834 Filed 6-21-06; 8:45 am]

BILLING CODE 3410-05-P

## **DEPARTMENT OF ENERGY**

### **Office of Energy Efficiency and Renewable Energy**

#### **10 CFR Part 440**

#### **RIN 1904-AB56**

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

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

**ACTION:** Direct final rule.

**SUMMARY:** The Department of Energy (DOE) is issuing a direct final rule to amend the regulations for the Weatherization Assistance Program for Low-Income Persons to incorporate statutory changes resulting from the passage of the Energy Policy Act of 2005. In this direct final rule, DOE defines renewable energy systems eligible for funding in the Weatherization Assistance Program, establishes criteria for performance and

quality standards for eligible renewable energy systems, establishes procedures for submission of and action on manufacturer petitions for Secretarial determinations of eligibility of renewable energy technologies and systems, and establishes a ceiling for funding of renewable energy systems in the Weatherization Assistance Program.

**DATES:** This direct final rule is effective August 21, 2006, unless adverse or critical comments are received by July 24, 2006. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** You may submit comments, identified by RIN 1904-AB56, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *E-Mail:* [Weatherization.rules@ee.doe.gov](mailto:Weatherization.rules@ee.doe.gov). Include RIN 1904-AB56 in the subject line of the message.

• *Mail:* Weatherization Assistance Program, U.S. Department of Energy, Mail Stop EE-2K, 5E-066, 1000 Independence Avenue, SW., Washington, DC 20585.

You may obtain electronic copies of this rulemaking and review comments received by DOE by visiting the DOE Freedom of Information Reading Room, Department of Energy, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-3142, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** John Atcheson, Weatherization Assistance Program, U.S. Department of Energy, Mail Stop EE-2K, 5E-066, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-0771.

#### **SUPPLEMENTARY INFORMATION:**

- I. Introduction
- II. Amendments to the Weatherization Assistance Program
- III. Final Action
- IV. Procedural Requirements
- V. The Catalog of Federal Domestic Assistance
- VI. Approval of the Office of the Secretary

#### **I. Introduction**

The Department of Energy (DOE) amends the program regulations for the Weatherization Assistance Program for Low-Income Persons. The program is authorized by Title IV, Part A, of the Energy Conservation and Production Act, 42 U.S.C. 6861 *et seq.* The amendments made by this direct final rule are necessitated by certain changes in the Weatherization Assistance Program mandated in the Energy Policy

Act of 2005 (Pub. L. 109-58) (EPACT 2005). Specifically, section 206 of EPACT 2005 amended section 415(c) of the Energy Conservation and Production Act (42 U.S.C. 6865(c)) to provide funding to low-income persons for renewable energy systems and to set a new ceiling for funding of renewable energy systems in the Weatherization Assistance Program.

In this direct final rule, DOE defines renewable energy systems eligible for funding in the Weatherization Assistance Program, establishes criteria for performance and quality standards for eligible renewable energy systems, establishes procedures for submission of and action on manufacturer petitions for Secretarial determinations of eligibility of renewable energy technologies and systems, and establishes a ceiling for funding of renewable energy systems in the Weatherization Assistance Program.

DOE is today amending the program regulations to include specific requirements mandated by EPACT 2005. DOE is not now proposing any additions to the forms of renewable energy included in the definition of "renewable energy system." Nor is DOE proposing renewable energy system performance and quality standards beyond those included in EPACT 2005. Thus, DOE views these amendments to be noncontroversial and appropriate for direct final rulemaking (see III. Final Action for information on this procedure).

## **II. Amendments to the Weatherization Assistance Program**

This section of the preamble provides a section-by-section description of the amendments made by this direct final rule.

**Section 440.1 (Purpose and Scope).** DOE amends 10 CFR 440.1 to explicitly state that the program's goals include the use of renewable energy systems and technologies. While DOE considered renewable energy systems and technologies to be eligible for funding under the program prior to the passage of EPACT 2005, Congress has clarified the scope and treatment of such systems by providing specific definitions and criteria to be used in assessing eligibility and by expanding funding opportunities for renewable energy systems.

**Section 440.3 (Definitions).** DOE amends 10 CFR 440.3, the definitions section, to add definitions of the terms "biomass" and "renewable energy system." These definitions are taken from section 206 of EPACT 2005, which amends 42 U.S.C. 6865(c) to include the definitions in a new subsection (6).

**Section 440.18 (Allowable Expenditures).** DOE amends 10 CFR

440.18 to add a new paragraph (b) that incorporates the new statutory provisions addressing renewable energy systems and specifying a ceiling of \$3,000 per dwelling for labor, weatherization materials, and related matters. Redesignated paragraph (c) (formerly paragraph (b)) is amended to provide that the procedure for annual adjustments to the ceiling for expenditures on a dwelling under the program applies to the \$3,000 renewable energy system cap, as well as to the \$2,500 cap that applies to other eligible weatherization expenditures under the program. This amendment applies prospectively; DOE will not apply the \$3,000 cap retroactively to recalculate weatherization assistance awarded since 2000. Rather, the amendment is intended only to implement the new statutory ceiling applicable to renewable energy systems, and to clarify that the formula used for increasing the ceiling specified in 2000 also applies to the cap for renewable energy technologies and systems.

*Section 440.21 (Weatherization materials, standards and energy audit procedures).* DOE amends 10 CFR 440.21 to incorporate criteria for defining and evaluating what is an acceptable renewable energy technology or system for funding under the Weatherization Assistance Program. A new paragraph (c)(1) in this section specifies performance and quality standards criteria for renewable energy systems. These criteria are taken from amendments to the Energy Conservation and Production Act made by EPACT 2005, specifically 42 U.S.C. 6865(c)(5)(D) and (6)(A)(iii) and (iv). New paragraph (c)(2) establishes a procedure for submission of and action on petitions by manufacturers requesting the Secretary of Energy to certify a new technology or system as an eligible renewable energy system. This amendment implements 42 U.S.C. 6865(c)(5)(A)(ii) and (B), added to the Energy Conservation and Production Act by EPACT 2005. In applying these requirements, DOE will build upon the approaches used now for energy efficiency materials and procedures.

### III. Final Action

DOE is publishing this direct final rule without prior proposal because DOE views these amendments as noncontroversial and anticipates no significant adverse comments. However, in the event that significant adverse or critical comments are filed, DOE has prepared a notice of proposed rulemaking (NOPR) proposing the same amendments. This NOPR is published as a separate document in this **Federal**

**Register** publication. The direct final rule will be effective August 21, 2006, unless significant adverse or critical comments are received by July 24, 2006. If DOE receives significant adverse or critical comments, the revisions to 10 CFR part 440 in this direct final rule will be withdrawn before the effective date. In the case of withdrawal of this action, the withdrawal will be announced by a subsequent **Federal Register** document. All public comments will then be addressed in a separate final rule based on the proposed rule that is also issued today. DOE will not implement a second comment period on this action. Any persons interested in commenting on this rule should do so at this time.

### IV. Procedural Requirements

#### A. Review Under Executive Order 12866

Today's direct 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. National Environmental Policy Act

DOE has determined that promulgation of this direct 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 direct final rule is covered under the Categorical Exclusion found in DOE's National Environmental Policy Act regulations at paragraph A.5 of appendix A to subpart D, 10 CFR part 1021, which applies to 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.

#### C. 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. As required by Executive Order 13272, "Proper Consideration of Small Entities in

Agency Rulemaking," 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process (68 FR 7990). DOE has made its procedures and policies available on the Office of General Counsel's Web site at <http://www.gc.doe.gov>.

DOE has reviewed today's direct final rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. The direct final rule amends DOE's Weatherization Assistance Program regulations to incorporate statutory changes made to the grant program. These amendments do not independently have any economic impact on small entities. Moreover, the EPACT 2005 changes expand the benefits available under the program for grant recipients; the statutory changes cause no adverse impact on any recipient. On the basis of the foregoing, DOE certifies that the amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE's certification and supporting statement of factual basis will be provided to the Chief Counsel for Advocacy of the Small Business Administration pursuant to 5 U.S.C. 605(b).

#### D. Paperwork Reduction Act

This direct final rule will not impose any new collection of information subject to review and approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

#### E. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) generally requires Federal agencies to examine closely the impacts of regulatory actions on State, local, and tribal governments. Subsection 101(5) of Title I of that law defines a Federal intergovernmental mandate to include any regulation that would impose upon State, local, or tribal governments an enforceable duty, except a condition of Federal assistance or a duty arising from participating in a voluntary Federal program. Title II of that law requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments, in the aggregate, or to the private sector, other than to the extent such actions merely incorporate requirements specifically set forth in a

statute. Section 202 of that title requires a Federal agency to perform a detailed assessment of the anticipated costs and benefits of any rule that includes a Federal mandate which may result in costs to State, local, or tribal governments, or to the private sector, of \$100 million or more. Section 204 of that title requires each agency that proposes a rule containing a significant Federal intergovernmental mandate to develop an effective process for obtaining meaningful and timely input from elected officers of State, local, and tribal governments.

This direct final rule will not impose a Federal mandate on State, local or tribal governments, and it will not result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of \$100 million or more in any one year. Accordingly, no assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

#### *F. Treasury and General Government Appropriations Act, 1999*

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 proposed rule that may affect family well-being. Today's direct 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.

#### *G. Executive Order 13132*

Executive Order 13132, 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that pre-empt 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 this direct final rule and has determined that it would not pre-empt State law and would 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.

#### *H. 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 Executive 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. The review required by sections 3(a) and 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 sections 3(a) and 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 direct final rule meets the relevant standards of Executive Order 12988.

#### *I. Treasury and General Government Appropriations Act, 2001*

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's notice under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

#### *J. Executive Order 13211*

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the OMB a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that

promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of Office of Information and Regulatory Affairs (OIRA) as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's regulatory action would not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

#### *K. Congressional Notification*

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of today's 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(2).

#### **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.

#### **VI. Approval of the Office of the Secretary**

The Secretary of Energy has approved publication of today's direct final rule, as well as the accompanying notice of proposed rulemaking.

#### **List of Subjects 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 June 9, 2006.

**Douglas L. Faulkner,**

*Principal Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.*

- For the reasons set forth in the preamble, DOE amends part 440 of chapter II of title 10, Code of Federal Regulations, to read as follows:

## 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.*

### § 440.1 [Amended]

■ 2. Section 440.1 is amended by adding the words “or to provide such persons renewable energy systems or technologies” after the words “low-income persons,” where they are first used.

■ 3. Section 440.3 is amended by adding in alphabetical order definitions of “biomass” and “renewable energy system” to read as follows:

### § 440.3 Definitions.

\* \* \* \* \*

**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.

\* \* \* \* \*

**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.

\* \* \* \* \*

■ 4. Section 440.18 is amended by:

- a. Redesignating paragraphs (b) through (e) as paragraphs (c) through (f);
- b. Adding a new paragraph (b);
- c. Amending redesignated paragraph (c) by adding the phrase “(\$3,000 for renewable energy systems)” after the words “The \$2,500 average” in the introductory sentence.

The additions read as follows:

### § 440.18 Allowable expenditures.

\* \* \* \* \*

(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.

\* \* \* \* \*

- 5. Section 440.21 is amended by:
- a. Revising paragraph (a);
- b. Redesignating paragraphs (c) through (h) as paragraphs (d) through (i);
- c. Adding a new paragraph (c);
- d. Amending the introductory sentence of redesignated paragraph (e) by removing the words “paragraph (c)” and adding in their place the words “paragraph (d)”; and, in redesignated paragraph (e)(2), by removing the words “paragraph (d)(1)” and adding in their place the words “paragraph (e)(1)”; and
- e. Amending redesignated paragraph (g) by removing the words “paragraphs (b) through (e)” and adding in their place the words “paragraphs (b) through (f)”.

The revisions and additions read as follows:

### § 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.

\* \* \* \* \*

(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.

(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**.

\* \* \* \* \*

[FR Doc. E6-9858 Filed 6-21-06; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

**[Docket No. FAA-2006-24090; Directorate Identifier 2006-CE-16-AD; Amendment 39-14664; AD 2006-13-11]**

#### RIN 2120-AA64

**Airworthiness Directives; Pilatus Aircraft Ltd. Models PC-6, PC-6-H1, PC-6-H2, PC-6/350, PC-6/350-H1, PC-6/350-H2, PC-6/A, PC-6/A-H1, PC-6/A-H2, PC-6/B-H2, PC-6/B1-H2, PC-6/B2-H2, PC-6/B2-H4, PC-6/C-H2, and PC-6/C1-H2 Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) that supersedes AD 2002-21-08, which applies to certain Pilatus Aircraft Ltd (Pilatus) Model PC-6 airplanes. AD 2002-21-08 currently requires you to inspect the aileron assembly for correct