

SUBCHAPTER D—ENERGY CONSERVATION

PARTS 400–417 [RESERVED]

PART 420—STATE ENERGY PROGRAM

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AUTHORITY: Title III, part D, as amended, of the Energy Policy and Conservation Act (42 U.S.C. 6321 *et seq.*); Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*)

SOURCE: 61 FR 35895, July 8, 1996, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 420 appear at 64 FR 46114, Aug. 24, 1999.

Subpart A—General Provisions for State Energy Program Financial Assistance

§ 420.1 Purpose and scope.

It is the purpose of this part to promote the conservation of energy, to reduce the rate of growth of energy demand, and to reduce dependence on imported oil through the development and implementation of a comprehensive State Energy Program and the provision of Federal financial and technical assistance to States in support of such program.

§ 420.2 Definitions.

As used in this part:

Act means title III, part D, as amended, of the Energy Policy and Conservation Act, 42 U.S.C. 6321 *et seq.*

Alternative transportation fuel means methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquified petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials (including neat biodiesel); and electricity (including electricity from solar energy).

ASHRAE/IESNA 90.1-1989, as amended means the building design standard published in December 1989 by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, and the Illuminating Engineering Society of North America titled “Energy Efficient Design of New Buildings Except Low-Rise Residential Buildings,” with Addenda 90.1b-1992; Addenda 90.1d-1992; Addenda 90.1e-1992; Addenda 90.1g-1993; and Addenda 90.1i-1993, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in § 420.6(b).

Assistant Secretary means the Assistant Secretary for Energy Efficiency and Renewable Energy or any official to whom the Assistant Secretary’s

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functions may be redelegated by the Secretary.

British thermal unit (Btu) means the quantity of heat necessary to raise the temperature of one pound of water one degree Fahrenheit at 39.2 degrees Fahrenheit and at one atmosphere of pressure.

Building means any structure which includes provision for a heating or cooling system, or both, or for a hot water system.

Carpool means the sharing of a ride by two or more people in an automobile.

Carpool matching and promotion campaign means a campaign to coordinate riders with drivers to form carpools and/or vanpools.

Commercial building means any building other than a residential building, including any building constructed for industrial or public purposes.

Commercially available means available for purchase by the general public or target audience in the State.

Deputy Assistant Secretary means the Deputy Assistant Secretary for Building Technology, State and Community Programs or any official to whom the Deputy Assistant Secretary's functions may be redelegated by the Assistant Secretary.

Director, Office of State and Community Programs means the official responsible for DOE's formula grant programs to States, or any official to whom the Director's functions may be redelegated by the Assistant Secretary.

DOE means the Department of Energy.

Energy audit means any process which identifies and specifies the energy and cost savings which are likely to be realized through the purchase and installation of particular energy efficiency measures or renewable energy measures.

Energy efficiency measure means any capital investment that reduces energy costs in an amount sufficient to recover the total cost of purchasing and installing such measure over an appropriate period of time and maintains or reduces non-renewable energy consumption.

Environmental residual means any pollutant or pollution causing factor which results from any activity.

Exterior envelope physical characteristics means the physical nature of those elements of a building which enclose conditioned spaces through which thermal energy may be transferred to or from the exterior.

Governor means the chief executive officer of a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States, or a person duly designated in writing by the Governor to act upon his or her behalf.

Grantee means the State or other entity named in the notice of grant award as the recipient.

HVAC means heating, ventilating and air-conditioning.

IBR means incorporation by reference.

Industrial facility means any fixed equipment or facility which is used in connection with, or as part of, any process or system for industrial production or output.

Institution of higher education has the same meaning as such term is defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

Manufactured home means any dwelling covered by the Federal Manufactured Home Construction and Safety Standards, 24 CFR part 3280.

Metropolitan Planning Organization means that organization required by the Department of Transportation, and designated by the Governor as being responsible for coordination within the State, to carry out transportation planning provisions in a Standard Metropolitan Statistical Area.

Model Energy Code, 1993, including Errata, means the model building code published by the Council of American Building Officials, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in § 420.6(b).

Park-and-ride lot means a parking facility generally located at or near the trip origin of carpools, vanpools and/or mass transit.

Petroleum violation escrow funds. For purposes both of exempting petroleum violation escrow funds from the matching requirements of § 420.12 and of applying the limitations specified under § 420.18(b), this term means any funds

distributed to the States by the Department of Energy or any court and identified as Alleged Crude Oil Violation funds, together with any interest earned thereon by the States, but excludes any funds designated as "excess funds" under section 3003(d) of the Petroleum Overcharge Distribution and Restitution Act, subtitle A of title III of the Omnibus Budget Reconciliation Act of 1986, Public Law 99-509, and the funds distributed under the "Warner Amendment," section 155 of Public Law 97-377.

Plan means a State Energy Program plan including required program activities in accordance with § 420.15 and otherwise meeting the applicable provisions of this part.

Political subdivision means a unit of government within a State, including a county, municipality, city, town, township, parish, village, local public authority, school district, special district, council of governments, or any other regional or intrastate governmental entity or instrumentality of a local government exclusive of institutions of higher learning and hospitals.

Preferential traffic control means any one of a variety of traffic control techniques used to give carpools, vanpools and public transportation vehicles priority treatment over single occupant vehicles other than bicycles and other two-wheeled motorized vehicles.

Program activity means one or more State actions, in a particular area, designed to promote energy efficiency, renewable energy and alternative transportation fuel.

Public building means any building which is open to the public during normal business hours, including:

(1) Any building which provides facilities or shelter for public assembly, or which is used for educational office or institutional purposes;

(2) Any inn, hotel, motel, sports arena, supermarket, transportation terminal, retail store, restaurant, or other commercial establishment which provides services or retail merchandise;

(3) Any general office space and any portion of an industrial facility used primarily as office space;

(4) Any building owned by a State or political subdivision thereof, including

libraries, museums, schools, hospitals, auditoriums, sport arenas, and university buildings; and

(5) Any public or private non-profit school or hospital.

Public transportation means any scheduled or nonscheduled transportation service for public use.

Regional Office Director means the director of a DOE Regional Office with responsibility for grants administration or any official to whom that function may be redelegated.

Renewable energy means a non-depletable source of energy.

Renewable energy measure means any capital investment that reduces energy costs in an amount sufficient to recover the total cost of purchasing and installing such measure over an appropriate period of time and that results in the use of renewable energy to replace the use of non-renewable energy.

Residential building means any building which is constructed for residential occupancy.

Secretary mean the Secretary of DOE.

SEP means the State Energy Program under this part.

Small business means a private firm that does not exceed the numerical size standard promulgated by the Small Business Administration under section 3(a) of the Small Business Act (15 U.S.C. 632) for the Standard Industrial Classification (SIC) codes designated by the Secretary of Energy.

Start-up business means a small business which has been in existence for 5 years or less.

State means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

State or local government building means any building owned and primarily occupied by offices or agencies of a State; and any building of a unit of local government or a public care institution which could be covered by part H, title III, of the Energy Policy and Conservation Act, 42 U.S.C. 6372-6372i.

Transit level of service means characteristics of transit service provided which indicate its quantity, geographic area of coverage, frequency and quality (comfort, travel, time, fare and image).

Urban area traffic restriction means a setting aside of certain portions of an urban area as restricted zones where

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varying degrees of limitation are placed on general traffic usage and/or parking.

Vanpool means a group of riders using a vehicle, with a seating capacity of not less than eight individuals and not more than fifteen individuals, for transportation to and from their residence or other designated locations and their place of employment, provided the vehicle is driven by one of the pool members.

Variable working schedule means a flexible working schedule to facilitate activities such as carpools, vanpools, public transportation usage, and/or telecommuting.

[61 FR 35895, July 8, 1996, as amended at 62 FR 26726, May 14, 1997]

§ 420.3 Administration of financial assistance.

(a) Financial assistance under this part shall comply with applicable laws and regulations including, but without limitation, the requirements of:

(1) Executive Order 12372, Intergovernmental Review of Federal Programs, as implemented by 10 CFR part 1005.

(2) DOE Financial Assistance Rules (10 CFR part 600); and

(3) Other procedures which DOE may from time to time prescribe for the administration of financial assistance under this part.

(b) The budget period(s) covered by the financial assistance provided to a State according to § 420.11(b) or § 420.33 shall be consistent with 10 CFR part 600.

(c) Subawards are authorized under this part and are subject to the requirements of this part and 10 CFR part 600.

§ 420.4 Technical assistance.

At the request of the Governor of any State to DOE and subject to the availability of personnel and funds, DOE will provide information and technical assistance to the State in connection with effectuating the purposes of this part.

§ 420.5 Reports.

(a) Each State receiving financial assistance under this part shall submit to the cognizant Regional Office Director

a quarterly program performance report and a quarterly financial status report.

(b) Reports under this section shall contain such information as the Secretary may prescribe in order to monitor effectively the implementation of a State's activities under this part.

(c) The reports shall be submitted within 30 days following the end of each calendar year quarter.

§ 420.6 Reference standards.

(a) The following standards which are not otherwise set forth in this part are incorporated by reference and made a part of this part. The following standards have been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A notice of any change in these materials will be published in the Federal Register. The standards incorporated by reference are available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(b) The following standards are incorporated by reference in this part:

(1) The American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), 1791 Tullie Circle, N.E., Atlanta, Georgia 30329, (404) 636-8400/The Illuminating Engineering Society of North America (IESNA), 345 East 47th Street, New York, New York 10017, (212) 705-7913: (i) ASHRAE/IESNA 90.1-1989, entitled "Energy Efficient Design of New Buildings Except Low-Rise Residential Buildings," with Addenda 90.1b-1992; Addenda 90.1d-1992; Addenda 90.1e-1992; Addenda 90.1g-1993; and Addenda 90.1i-1993, IBR approved for § 420.2 and § 420.15.

(2) The Council of American Building Officials (CABO), 5203 Leesburg Pike, Suite 708, Falls Church, Virginia 22041, (703) 931-4533: (i) The Model Energy Code, 1993, including Errata, IBR approved for § 420.2 and § 420.15.

Subpart B—Formula Grant Procedures

§ 420.10 Purpose.

This subpart specifies the procedures that apply to the Formula Grant part