§ 216.3 Requests for assistance.

(a) Persons who believe that they perform work associated with a program or project which may qualify as an eligible energy program or project and wishing to receive assistance as authorized by DPA section 101(c)(1) may submit an application to DOE requesting DOE to determine whether a program or project maximizes domestic energy supplies and to find whether or not specific supplies of materials or equipment identified in the application are critical and essential for a purpose identified in section 101(c). The application should be sent to: Department of Energy, Procurement and Assistance Management Directorate, Attn: MA–422, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585. The application shall contain the following information:

(1) The name and address of the applicant and of its duly authorized representative.

(2) A description of the energy program or project for which assistance is requested and an assessment of its impact on the maximization of domestic energy supplies.

(3) The amount of energy to be produced by the program or project which is directly affected by the supplies of the materials or equipment in question.

(4) A statement explaining why the materials or equipment for which assistance is requested are critical and essential to the construction or operation of the energy project or program.

(5) A detailed description of the specific supplies of materials and equipment in connection with which assistance is requested, including: Components, performance data (capacity, life duration, etc.), standards, acceptable tolerances in dimensions and specifications, current inventory, present and expected rates of use, anticipated deliveries and substitution possibilities (feasibility of using other materials or equipment).

(6) A detailed description of the sources of supply, including: Name of the regular supplying company or companies, other companies capable of supplying the materials and equipment, location of supplying plants or plants capable of supplying the needed materials and equipment, possible suppliers for identical or substitutable materials and equipment and possible foreign sources of supply.

(7) A detailed description of the delivery stituation, including: Normal delivery times, promised delivery time without priorities assistance, and delivery time required for expeditious fulfillment or completion of the program or project.

(8) Evidence of the applicant's unsuccessful efforts to obtain on a timely basis the materials and equipment in question through normal business channels from current or other known suppliers.

(9) A detailed estimate of the delay in fulfilling or completing the energy program or project which will be caused by inability to obtain the specified materials and equipment in the usual course of business.

(10) Any known conflicts with rated or authorized controlled material orders already issued pursuant to the DPA for supplies of the described materials and equipment.

(11) Quarterly estimates of requirements for controlled materials, if applicable, by shapes and forms as prescribed by the DPAS regulation, § 350.31(e)(2).

(b) DOE, on consultation with the DOC, may prescribe standard forms of application or letters of instruction for use by all persons seeking assistance.

(c) In addition to the information described above, DOE may from time to time request whatever additional information it reasonably believes is relevant to the discharge of its functions pursuant to DPA section 101(c).

[43 FR 6212, Feb. 14, 1978, as amended at 51 FR 8311, Mar. 11, 1986]

§ 216.4 Evaluation by DOE of applications.

(a) Based on the information provided by the applicant and other available information, DOE will assess the application and (1) determine whether or not the energy program or project in connection with which the application is made maximizes domestic energy supplies and should be designated an eligible energy program or project and (2) find whether the described supplies of materials and equipment are critical

and essential to the eligible energy program or project.

(b) In determining whether the program or project referred to in the application should be designated an eligible energy program or project, DOE will consider all factors which it considers relevant including, but not limited to, the following:

(1) Quantity of energy involved;

(2) Benefits of timely energy program furtherance or project completion;

(3) Socioeconomic impact;

(4) The need for the end product for which the materials and equipment are allegedly required; and

(5) Established national energy policies.

(c) In findings whether the supplies of materials or equipment described in the application are critical and essential to an eligible energy program or project, DOE will consider all factors which it considers relevant including, but not limited to, the following:

(1) Availability and utility of substitute materials or equipment; and

(2) Impact of the nonavailability of the specific supplies of materials and equipment on the furtherance or timely completion of the approved energy program or project.

(d) Increased costs which may be associated with obtaining materials or equipment without assistance shall not be considered a valid reason for finding the materials and equipment to be critical and essential.

(e) After DOE has determined a program or project to be an eligible energy program or project, this determination shall be deemed made with regard to subsequent applications involving the same program or project unless and until DOE announces otherwise.

§216.5 Notification of findings.

(a) DOE will notify the DOC if it finds that supplies of materials and equipment, for which an applicant requested assistance, are critical and essential to an eligible energy program or project, and in such cases will forward to the DOC the application and whatever information or comments DOE believes appropriate. If DOE believes at any time that findings previously made may no longer be valid, it will immediately notify the DOC and the affected applicant(s) and afford such applicant(s) an opportunity to show cause why such findings should not be withdrawn.

(b) If DOC notifies DOE that DOC has found that supplies of materials and equipment, for which the applicant requested assistance, are scarce and that the related eligible energy program or project cannot reasonably be accomplished without exercising the authority specified in DPA section 101(c)(1), DOE will notify the applicant that the applicant is authorized to place rated orders and/or authorized controlled material orders for specific supplies of materials and equipment pursuant to the provisions of the DPAS Regulation, as promulgated by the Department of Commerce.

[43 FR 6212, Feb. 14, 1978, as amended at 51 FR 8312, Mar. 11, 1986]

§216.6 Petition for reconsideration.

If DOE, after evaluating an application in accordance with §216.4, does not determine that the energy program or project maximizes domestic energy supplies or does not find that the supplies of materials and equipment described in the application are critical and essential to an eligible energy program or project, it will so notify the applicant and the applicant may petition DOE for reconsideration. If DOE concludes at any time that findings previously made are no longer valid and should be withdrawn, DOE will so notify the affected applicant(s), and such applicant(s) may petition DOE for reconsideration of the withdrawal decision. Such a petition is deemed accepted when received by DOE at the address stated in §216.8. DOE will consider the petition for reconsideration and either grant or deny the relief requested. Written notice of the decision and of the reasons for the decision will be provided to the applicant. There has not been an exhaustion of administrative remedies until a petition for reconsideration has been submitted and the review procedure completed by grant or denial of the relief requested.