

## DEPARTMENT OF ENERGY

## 10 CFR Part 440

[CAS-RM-79-502]

## Weatherization Assistance for Low-Income Persons; Amendment of Regulations

AGENCY: Department of Energy.

ACTION: Final rule.

**SUMMARY:** The Department of Energy hereby amends the regulations for its program of weatherization assistance for low-income persons in order primarily to carry out changes required by the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.* In addition, DOE is providing certain other changes to simplifying further the program regulations and to improve program administration. The changes include a new ceiling of \$800 per dwelling unit for the cost of weatherization materials and most other allowable expenditures, an increase in the poverty level which is a criterion for weatherization assistance, a simplification of one of the eligibility tests to qualify a dwelling unit for weatherization work, and certain modifications regarding the materials which may be purchased with program funds.

EFFECTIVE DATE: July 2, 1979.

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## I. Introduction

The Department of Energy ("DOE") is amending the regulations for the program for weatherization assistance for low-income persons ("program" or "weatherization program"), 10 CFR Part 440, under the Energy Conservation in Existing Buildings Act of 1976, as amended ("Act"), 42 U.S.C. 6851 *et seq.* These changes implement certain amendments contained in § 231, 92 Stat. 3224, of the National Energy Conservation Policy Act ("NECPA"), Pub. L. 95-619, 92 Stat. 3206 *et seq.* In addition, DOE is providing certain other changes to simplify further the program regulations and to improve program administration. DOE proposed these changes on February 14, 1979, 44 FR 10348, February 16, 1979.

DOE recently completed a major revision of the program regulations based upon experience gained in the first year of program implementation, 44 FR 31, January 2, 1979. These changes were made to introduce greater flexibility into the administration of the program at the State and local levels. Today's issuance does not introduce another series of major changes but primarily makes those changes necessary to conform the regulations with provisions of NECPA. A number of the changes introduced into the program today are changes which are specifically mandated by NECPA and which DOE accordingly does not have discretion to vary. This final rule retains the changes as proposed, except for certain modifications pertaining to the 30-percent "umbrella," repairs, eligibility, taxes and materials which do not comply with a standard prescribed by DOE.

Today's issuance does not discuss a separate notice of proposed rulemaking issued by DOE on April 8, 1979, 44 FR 22608, April 16, 1979. This later proposal would revise program regulations to respond to the NECPA provision which requires DOE to establish procedures for determining the optimum set of cost-effective measures, within the cost guidelines for the program, for weatherizing each dwelling unit under the program.

## II. Discussion of comments and changes.

DOE received 91 comments on the proposed amendments during and after the 30-day comment period, in addition to the testimony of seventeen speakers at the public hearing held on March 12, 1979. Consideration of these comments resulted in certain changes in the final rule which are discussed below.

## A. Definitions.

1. *General.* The DOE proposed to amend § 440.3, Definitions, to revise the definitions of "low-income," "repair materials," and "weatherization materials" and to delete the definitions of "cosmetic items," "heating or cooling source," and "mechanical equipment." A conforming amendment to delete § 440.16(c)(3) was also proposed. Subparagraph 440.16(c)(3) precluded expenditure of program funds for "cosmetic items" or a "heating or cooling source." These proposals are made final as proposed.

2. *Weatherization Materials.* The proposed definition of "weatherization materials," which is incorporated unchanged in today's final notice, repeats the NECPA list of weatherization materials and adds four materials to the NECPA list by exercising the NECPA authority to prescribe further weatherization materials by rule. The four additional materials are "skirting," "items to improve attic ventilation," "vapor barriers," and "materials used as a patch to reduce infiltration through the building envelope." These additional materials are already covered by the program.

Fifty-three comments were received on the proposed definition of "weatherization materials". Five comments supported the proposed definition, while six expressed concern over the fact that, as NECPA requires, only materials listed in the definition would be allowable as weatherization materials under the program. Six respondents offered comments on "materials used as a patch to reduce infiltration," recommending either relaxation or tightening of the language describing this item. Specifically, some of the comments recommended deleting the "patch" limitation. The DOE has determined to leave the language as proposed, which is also as it appears in the current rules. By retaining the "patch" limitation, the regulatory language should not admit of the mistaken interpretation that general maintenance and repairs, total roof replacement or siding installation are allowable expenditures.

DOE also received numerous comments requesting the addition of further items to the definition of "weatherization materials." Some of the additional items suggested are already covered by the program, however, such as glass to replace broken windows, roof patching materials, certain furnace efficiency modifications, furnace repairs, and repair materials such as nails, screws, staples, and glue. Moreover, as discussed elsewhere in this notice, work is underway in the context of the residential energy conservation ("RCS") program that may add to the list of qualifying weatherization materials.

"Items to improve attic ventilation" are included within the definition of "weatherization materials," § 440.3(f)(ii). Such items are currently covered by the program. On May 1, 1979, the DOE received comments from the National Bureau of Standards suggesting that these materials be limited to "non-powered" items to improve attic ventilation, such as louvres in gables and soffits. The DOE is reviewing this suggestion in the context of the rulemaking described elsewhere in this notice for the RCS program and for determining the optimum set of cost-effective measures for weatherizing any particular dwelling under the weatherization program.

#### B. Allowable Expenditures.

Prior to its amendment by NECPA, the Act prescribed a ceiling of \$400 per dwelling unit for weatherization materials unless the State policy advisory council ("PAC") provided for a greater amount. The NECPA raised this amount to \$800 but expanded its scope to cover most of the other important allowable program expenditures as well as weatherization materials. The proposal made no substantive change to existing § 440.16(a) of the program regulations, other than to integrate the new \$800 ceiling. The prior \$400 ceiling, which had been carried in another place in the regulation, was deleted. The proposal retained in § 440.16(a) a previously prescribed 30-percent "umbrella" on certain allowable expenditures and a \$100 per dwelling limit on repair materials and repairs to the heating source. The proposal also retained prior regulatory language on taxes as allowable expenditures.

In today's notice, § 440.16(a) is retained as proposed, except for minor revisions to the 30-percent umbrella, and to the "repairs" and "taxes" language.

1. *The 30-Percent Umbrella.* In the final rule, § 440.16(a)(1)(ii), the 30-percent umbrella has been modified into a dollar figure which may not exceed an

average of \$240 per dwelling unit for any weatherization project. This change was made primarily to accommodate the 30-percent umbrella within the broader \$800 ceiling. The fit of the \$800 ceiling and the \$240 "sub-ceiling" is discussed in greater detail below.

Twenty-one individuals commented on the 30-percent umbrella. While one comment favored it, eighteen comments recommended a larger amount and various changes in the items covered. Two comments were general. No larger amount is adopted in today's final rule (the \$240 is the substantial equivalent of the 30-percent umbrella in dollar terms), nor are changes introduced in the items covered. The 30-percent umbrella provisions were first introduced into the regulations in January 1979, and the DOE believes it premature to make any further changes in them at this time.

Five comments questioned whether the umbrella itself was permissible under the NECPA. Their argument noted that the NECPA did not specifically provide for this restriction, where it did specifically provide for the \$800 limit and for a \$100 per unit limit on incidental repairs. The DOE has carefully considered these comments and believes it has the discretion to set the \$240 ceiling. Without the ceiling, amounts disproportionately large in DOE's view might be spent for certain indirect costs and little for weatherization materials.

2. *Incidental Repairs.* DOE proposed no revision to the current program regulations or repairs, limiting to \$100 per dwelling unit the cost of repair materials and repairs to the heating source. NECPA imposes a \$100 limit per dwelling unit on the cost for "making incidental repairs to such unit if such repairs are necessary to make the installation of weatherization materials effective." Seventeen comments urged that this limitation be raised. Upon review of the comments it has modified the regulatory language, § 440.16(a)(1)(iii), to make it congruent with the NECPA's phrasing. The DOE believes that the major effect of this change is to clarify that use of a contractor is not precluded in making appropriate incidental repairs. Before this amendment, it was not clear that program operators could arrange for a contractor to repair anything but the heating source. Any incidental repair may be made which the program operator determines is necessary to make the installation of weatherization materials effective, as long as expenditures remain within the \$100 limit. Accordingly, repairs to a chimney, a leaking pipe, or a furnace, for example,

would be allowable under § 440.16(a)(1)(iii).

3. *Complying with the \$800 and \$240 Limits.* The amendments announced today contain various limits on program costs. These limits, or close variants of them, are all contained in the current regulations. There is the \$800 limit, unless raised in particular cases, on weatherization materials and most other allowable expenditures. Within the \$800 limit, there is the \$240 limit on five types of indirect costs and the \$100 limit on incidental repairs. The rules also limit the amounts which may be spent for administrative expenses, as is discussed further below.

Significant concern with compliance with the \$800 limit and the \$240 limit was expressed in the comments and appears to be a cause for particular concern and confusion at present. In the proposal, DOE specifically requested comments concerning approaches it could use to encourage compliance with the \$800 per dwelling unit ceiling. Fifty-one commenters responded to DOE's solicitation, nearly all expressing concern that the new ceiling would not be administratively workable or would require program operators to be more strictly accountable for all costs incurred in connection with the program. Concern was also expressed that compliance could only be achieved through a detailed accounting system too complex for some Community Action Agencies ("CAA's") to use. One commenter noted that a detailed cost accounting system would be impossible with the concurrent program limitation on administrative costs.

While grantees and subgrantees will have a responsibility to comply with the new program limits on expenditures as of the effective date of this final rule, the DOE expects to develop further guidance to assist this compliance. The following discussion, while interim in nature, may serve to reduce uncertainties, regarding compliance with the \$800 and \$240 limits.

One effect of the change adopted today in § 440.12(b)(4) is expected to be that the budget which accompanies a State's annual application will demonstrate that projected expenditures do not exceed the \$800 and \$240 limits. This is one important step in insuring adherence to these limits. The DOE encourages the States in their annual applications to project reasonable numbers of units to be weatherized. The DOE intends to review those estimates carefully because an unrealistically large projection may work to jeopardize compliance with the limits. DOE is

considering other steps it can take in this area.

The DOE intends that the \$800 limit apply to each dwelling weatherized. An average of \$800 for each weatherized dwelling, either on a statewide or project area basis, was considered and rejected. The DOE is at this time retaining, as proposed, the \$800 limit on the actual costs per dwelling weatherized. The DOE believes that, at least for the present, this actual cost approach will serve as an extra assurance that the costs to which the \$800 limit apply will in fact remain within this statutory limit, and thereby that the maximum number of low-income persons can be served by the program. The DOE also believes that many, if not all, concerns associated with the actual cost approach to the \$800 limit will be relieved by the averaging which is authorized for the \$240 limit.

The \$240 limit is an average cost calculated by the grantee and applicable on a project area basis, for the five items under § 440.16(a)(1)(ii). Since the \$240 limit—like the current 30-percent umbrella—applies to certain indirect costs which cannot be specifically identified to individual dwellings, DOE believes that the simplest and easiest approach to implementing the \$240 limit is to have it apply as an average over the total number of units weatherized on a project area basis.

Until further guidance is provided on implementation of the \$240 ceiling, DOE recommends that grantees follow an approach similar to that currently being followed under the 30-percent umbrella. The grantee, except tribal organizations, should estimate statewide costs for the items in § 440.16(a)(1)(ii). A tribal organization, which is a grantee, should estimate these costs only for its own weatherization project. The grantee should calculate the total amount of these indirect costs divided by the estimated number of dwelling units to be weatherized to arrive at an average indirect cost per dwelling unit, not exceeding \$240 per dwelling unit.

Thereafter, every grantee or subgrantee will use this average cost calculation and may, with respect to each dwelling weatherized, spend only up to the difference between \$800 and the average cost calculation to pay for weatherization materials and incidental repairs, the remaining two items under the \$800 limit. For example, if a grantee estimates it will weatherize 1000 dwelling units and budgets \$230,000 for the indirect costs under § 440.16(a)(1)(ii), the average indirect cost would be \$230. The difference between \$800 and \$230 is

\$570. Accordingly, a subgrantee in the State may not spend more than \$570 for a dwelling unit to pay for the costs of materials under § 440.16(a)(1)(i) and repairs under § 440.16(a)(1)(iii). Program operators are expected to keep records to show this limitation is being followed, as at present with regard to the 30-percent umbrella limitations.

Because the grantee establishes the average indirect cost for a project area, no burden is placed upon the subgrantee to perform any further calculation or accounting procedures to estimate these indirect costs. Thus, if the statewide average cost is \$230 per dwelling unit and a grantee has estimated a subgrantee will weatherize 100 dwelling units in its project area, the subgrantee will receive \$23,000 ( $\$230 \times 100$ ) for these indirect costs under § 440.16(a)(1)(iii). Any funds not expended for indirect costs may, however, be used by a subgrantee to purchase weatherization materials.

In summary, DOE believes that further guidance to compliance with the \$800 and \$240 limitations can be built closely upon the interim approach, discussed above. The approach to the \$240 ceiling imposes virtually no new burden upon program operators. Program operators will continue to account for funds allocated by the State for expenditures for the items under § 440.16(a)(1)(ii). States and program operators previously had to identify separately expenditures made under the 30-percent umbrella, and this distinction continues to be required under the \$240 ceiling. All other costs under the \$800 limitation, i.e., purchase, delivery and storage of weatherization materials and incidental repairs, can be related to individual dwelling units, and compliance with the \$800 limitation should not require an approach significantly different from complying with the current \$400 limitation.

While the DOE believes that the major elements already exist for an approach to compliance with the \$800 and \$240 limits, which is workable and not unduly burdensome, the DOE is particularly interested in receiving suggestions on this matter from others who are involved with the operation of the program.

4. *Taxes.* In order to simplify recordkeeping at the project level, DOE is deleting § 440.16(a)(3) which specifies as an allowable expenditure "taxes related to other allowable expenditures, except the cost of employment of on-site supervisory personnel." The DOE intends that taxes related to other allowable expenditures continue to be allowable expenditures but to be

covered only by other specific allowable expenditures. For example, "the cost of purchase, delivery, and storage of weatherization materials,"

§ 440.16(a)(1)(i), may include any sales taxes related to the purchase of weatherization materials. As a further example, any tax on the employment of on-site supervisory personnel may be treated as an integral part of the allowable expenditure for the cost of employment of on-site supervisory personnel, § 440.16(a)(1)(ii)(E), which is included under the \$240 ceiling.

#### C. *Standards for Weatherization Materials.*

DOE has retained the requirement to limit purchases of weatherization materials to those for which standards exist. However, in § 440.17, DOE has revised paragraph (a) and deleted proposed § 440.17(b) from the final rule so that DOE will not approve, even on an exceptions basis, the purchase of weatherization materials which do not meet the standards prescribed in Appendix A. Three commenters supported limiting expenditures for weatherization materials only to materials for which standards exist, as DOE has done.

One commenter objected that the proposed change makes no allowance for taking advantage of newer and better materials or for seeking comparable materials at a reduced cost. Two commenters stated that limiting weatherization materials only to materials for which standards exist would unnecessarily increase costs and make purchasing of materials difficult. The DOE believes the advantages of safety and effectiveness that standards can provide make them advisable for weatherization materials purchased under the program. Moreover, any problems associated with the lack of standards should be minimized by work now ongoing in the RCS program.

The question of standards for weatherization materials is under careful study by DOE in connection with the RCS program. On March 12, 1979, DOE issued a proposed rule for the RCS program, 44 FR 16546, March 19, 1979, pursuant to Title II, Part I of NECpA. The purpose of the RCS program is to encourage larger gas and electric utilities and home heating oil suppliers to assist their residential customers in retrofitting their dwellings with conservation measures. The RCS rulemaking is considering an extensive list of conservation measures, with related standards, qualifying for use under the RCS program. The DOE expects to review this list to determine which items would be appropriate for

use as weatherization materials under the weatherization assistance program. Pending receipt and consideration of comments with regard to the list of materials and standards which may be used under the RCS program, an extensive reconsideration of weatherization materials at this time would be inappropriate.

Some program operators feared that, under the proposed change, installation of materials not meeting standards prior to the effective date of the final rule might cause retroactive disallowance of costs. Where DOE has approved the particular use of the nonconforming materials, this fear is unfounded because this final rule will apply only to acquisition of weatherization materials after its effective date. Similarly, materials acquired before the effective date of this final rule but not yet installed may nonetheless be used for weatherization assistance where prior DOE approval has been obtained.

#### D. Eligible Dwelling Units.

Under proposed § 440.18(b), one test of eligibility of a dwelling unit for weatherization work is whether it contains a family member who has received certain cash assistance payments "throughout" the 12-month period preceding the determination of eligibility for weatherization assistance. Twenty-eight comments were received, all urging that instead of using the word "throughout" DOE retain the word "during," which is used in the current regulations. The comments objected to requiring—as "throughout" would—that a person be continuously eligible for the 12-month period.

DOE is retaining the word "during," as recommended by the comments, and is promulgating the rest of § 440.18(b) as proposed. The DOE notes that a test requiring a full year of cash assistance payments is not precluded for grantees and subgrantees who want to use it. Further, DOE urges all grantees and subgrantees to continue giving as much attention as they can to providing assistance to the neediest among those who are eligible.

### III. Comments DOE could not incorporate

DOE received many comments which suggested revisions to the regulations which were not able to be incorporated in the final rule. Most of these comments recommended changes inconsistent with specific requirements of the NECPA or outside the scope of the proposal.

#### A. Labor.

Several comments expressed concern regarding the availability, reliability, and skill levels of labor provided in

accordance with training programs conducted under the Comprehensive Employment and Training Act of 1976 ("CETA"), which is being used to weatherize dwelling units. Alternatives suggested in comments included: (1) Authorizing greater expenditure of grant funds under this program to pay the costs of employing labor and (2) creation of a special set-aside from the Secretary of Labor's discretionary fund for weatherization labor.

The DOE has not been able to address labor comprehensively in its program rules because the Act contemplates that, to the maximum extent practicable, CETA labor will perform the weatherization work under the program. Section 233 of NECPA tasks the DOE, the Department of Labor ("DOL"), Community Services Administration ("CSA"), and others to work together in securing CETA support for Federally-assisted weatherization programs. Among the efforts already undertaken to minimize the labor problems related to weatherization work, on January 9, 1979, guidance was developed by DOE in conjunction with DOL, CSA, the Office of Management and Budget ("OMB") and staff from the White House Domestic Policy Council. This guidance requires an ongoing working agreement between DOE, DOL and CSA at the regional office level to identify and resolve current labor problems, up to and including a change of weatherization sponsors, if necessary, to achieve the purposes of the program. The issue of weatherization labor is discussed in greater detail in the preambles of notices regarding proposals for, and recent changes in, the program's regulations, 43 FR 34493, August 4, 1978; 44 FR 31, January 2, 1979.

#### B. Administrative Costs.

The final rule retains the proposed language concerning administrative costs. Almost half of all those responding to the proposed regulations objected strongly to proposed § 440.18(b) limiting both the grantee and subgrantee to 5% of their grant funds for administrative costs. These limits, however, are contained in the NECPA.

#### C. The \$800 Limitation.

DOE received twenty-six comments on the \$800 per dwelling ceiling on weatherization materials and most other allowable program expenditures. Twelve comments supported the change while nine others thought that this ceiling was too low or that it should not apply to other expenditures than expenditures for weatherization materials. This ceiling and the items it covers, however, are mandated by the NECPA.

DOE received six comments requesting DOE to delay incorporation of the \$800 limitation in the revisions to proposed § 440.18 although the NECPA provisions relating to the program explicitly call for expeditious implementation. Three comments observed that the proposed revisions were confusing but provided no specific recommendations.

#### D. Waiver of \$800 Limitation.

Again, the proposed language is retained in the final rule. Twenty commenters offered their views on the proposed procedure for increasing the \$800 maximum expenditure per dwelling unit for specific categories of units or materials in a State. Eight commenters opposed the amendment requiring the Regional Representative's approval of such an increase and recommended that the authority to make this determination be returned to the State PAC.

NECPA is specific in mandating DOE approval for an increase in the \$800 ceiling for specific categories of units or materials in the State. Proposed § 440.18(d), therefore, has been retained in the final rule to implement this statutory requirement.

#### E. Return to Previously Weatherized Dwellings.

Fourteen commenters recommended that § 440.18(c)(1), which prohibits the weatherization of a dwelling unit which has been weatherized previously with grant funds, be modified to provide additional assistance to clients who received services before the increase in the maximum expenditure from \$400 to \$800. DOE believes that such a change would be inappropriate because it would make less assistance available to those low-income persons who have need of and have never received any weatherization assistance.

#### F. Other Issues.

Other comments which DOE was unable to incorporate in this rulemaking requested DOE to: (1) Eliminate the requirement that a landlord consent to the weatherization rental property which he owns, a problem in certain urban areas where the landlord has abandoned the building; (2) establish a separate weatherization program for farm workers; and (3) encourage program operators to combine DOE weatherization funds with HUD and CSA programs funds. These ideas will be considered further, pursued as appropriate with other agencies, and may be addressed in subsequent rulemaking.

### IV. Environmental and other review.

This rule was developed in accordance with Executive Order 12044,

"Improving Government Regulations." Receipt and analysis of public comment occurred for a period in excess of 30 days, and a regulatory analysis was determined not to be necessary.

The environmental impacts associated with the implementation of the weatherization program as amended by NECPA were analyzed in a programmatic environmental assessment ("EA"). Notice of the public availability of the EA and of DOE's negative determination, based on that EA that the program regulations including the amendments promulgated by this rule, did not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*, was published in the Federal Register on April 10, 1979, 44 FR 21323. That notice solicited comments on the EA and DOE's negative determination. No comments have been received to date. Accordingly, DOE reaffirms its negative determination, but, at the same time, re-emphasizes the commitment made in the EA that appropriate environmental evaluation will be made on a site-specific basis.

(Energy Conservation in Existing Buildings Act of 1976, as amended, 42 U.S.C. 6851 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*)

In consideration of the foregoing, Part 440 of Chapter II of Title 10 of the code of Federal Regulations is amended as set forth below, effective July 2, 1979.

Issued in Washington, D.C., May 24, 1979  
 Omi G. Walden,  
*Assistant Secretary, Conservation and Solar Applications, Department of Energy.*

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

1. 10 CFR 440.3 is amended by deleting the definitions of "cosmetic items," "heating or cooling source," and "mechanical equipment" and by revising the definitions of "low income," "repair materials" and "weatherization materials" to read as follows:

**§ 440.3 Definitions.**

"Low income" means that income in relation to family size which—

(1) Is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, except that the Secretary may establish a higher level if the Secretary, after consulting with the Secretary of

Agriculture and the Director of the Community Services Administration, determines that such a higher level is necessary to carry out the purposes of this part and is consistent with the eligibility criteria established for the weatherization program under section 222(a)(12) of the Economic Opportunity Act of 1964; or

(2) Is the basis on which cash assistance payments have been paid during the preceding 12 month period under Titles IV and XVI of the Social Security Act or applicable State or local law.

"Repair materials" mean items necessary for the effective performance or preservation of weatherization materials. Repair materials include, but are not limited to lumber used to frame or repair windows and doors which could not otherwise be caulked or weatherstripped, and protective materials, such as paint, used to seal materials installed under this program.

"Weatherization materials" mean—

- (1) Caulking and weatherstripping of doors and windows;
- (2) Furnace efficiency modifications limited to—
  - (i) Replacement burners designed to substantially increase the energy efficiency of the heating system;
  - (ii) Devices for modifying fuel openings which will increase the energy efficiency of the heating system; and
  - (iii) Electrical or mechanical furnace ignition systems which replace standing gas pilot lights;
- (3) Clock thermostats;
- (4) Ceiling, attic, wall, floor, and duct insulation;
- (5) Water heater insulation;
- (6) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective window and door materials; and
- (7) The following insulating or energy conserving devices or technologies—
  - (i) Skirting;
  - (ii) Items to improve attic ventilation;
  - (iii) Vapor barriers; and
  - (iv) Materials used as a patch to reduce infiltration through the building envelope.

**§ 440.12 (Amended)**

2. 10 CFR 440.12(b)(4) is amended by deleting the reference to "(a) (2) or (3)" following "§ 440.16".

3. 10 CFR 440.16(a), the first sentence of §§ 440.16(b), and 440.16(d) are amended to read as follows and § 440.16(c)(3) is deleted:

**§ 440.16 Allowable expenditures.**

(a) To the maximum extent practicable, the grant funds provided under this part shall be used for the purchase of weatherization materials and related matter described in subparagraph (1). Allowable expenditures under this part include only—

(1) A maximum of \$800 for any dwelling unit, except as provided in paragraph (d) of this section, for—

- (i) The cost of purchase, delivery, and storage of weatherization materials;
- (ii) The cost, determined by a grantee, which shall not exceed an average for any subgrantee of \$240 per dwelling unit, of—

(A) Transportation of weatherization materials, tools, equipment, and work crews to a storage site and to the site of weatherization work;

(B) Maintenance, operation, and insurance of vehicles used to transport weatherization materials;

(C) Maintenance of tools and equipment;

(D) Purchase or annual lease of tools, equipment, and vehicles, except that any purchase of vehicles shall be referred to DOE for prior approval in every instance; and

(E) Employment of on-site supervisory personnel; and

(iii) The cost, not to exceed \$100 per dwelling unit, of incidental repairs, including repair materials and repairs to the heating source, necessary to make the installation of weatherization materials effective;

(2) The cost of liability insurance for weatherization projects for personal injury and for property damage;

(3) [Reserved]; and

(4) Allowable administrative expenses under paragraph (b) of this section.

(b) Not more than 5 percent of each grant made pursuant to this part may be used for the administrative expenses of the grantee, and not more than 5 percent of each amount allocated to a sub-grantee under this part may be used for administrative expenses of the sub-grantee.

(c) . . .

(3) [Deleted]

(d) The limitation of \$800 described in paragraph (a) of this section shall not apply if the State policy advisory council requests a greater amount be provided for specific categories of units or materials in the State, and the Regional Representative approves the request.

4. 10 CFR 440.17 is amended by revising subparagraph (a) to read as set

forth below, and by deleting subparagraph (b), and by redesignating subparagraphs (c), (d), (e) as (b), (c), and (d).

**§ 440.17 Standards and techniques for weatherization.**

(a) Only weatherization materials which meet or exceed standards prescribed in Appendix A shall be purchased with funds provided under this part.

\* \* \* \* \*

5. 10 CFR 440.18 is amended to read as follows:

**§ 440.18 Eligible dwelling units.**

No dwelling unit shall be eligible for weatherization assistance under this part unless it is occupied by a family unit—

(a) Whose income is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget; or

(b) Which contains a member who has received cash assistance payments under Title IV or XVI of the Social Security Act or applicable State or local law during the 12 month period preceding the determination of eligibility for weatherization assistance.

6. Appendix A to 10 CFR Part 440 is amended to add the following after "clock thermostats":

**APPENDIX A—Standards for weatherization materials**

\* \* \* \* \*

Clock thermostats—Skirting—commercial availability.

Items to improve attic ventilation—commercial availability.

Vapor barriers—commercial availability.

Materials used as a patch to reduce infiltration through the building envelope—commercial availability.

[FR Doc. 79-16864 Filed 5-30-79; 8:45 am]

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