

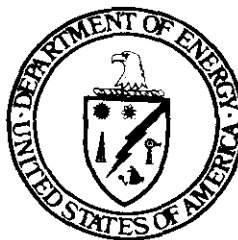
**WEATHERIZATION ASSISTANCE FOR  
LOW-INCOME PERSONS**

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of Wednesday, June 1, 1977

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Department  
of Energy

Office of  
Conservation  
and Solar  
Applications



State and  
Local Programs

Office of  
Weatherization  
Assistance

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those persons least able to afford higher energy costs and to conserve needed energy.

EFFECTIVE DATE: May 25, 1977.

FOR FURTHER INFORMATION CONTACT:

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A. INTRODUCTION

On April 1, 1977, the Federal Energy Administration published a proposed rule (42 FR 17470) to establish a program of weatherization assistance for low-income persons.

FEA received 50 written comments on the proposed rulemaking, and 106 individuals testified at the public hearings held by the Regional Offices during the week of April 18, 1977, and by the National Office on April 25, 1977. Virtually all of the commenters supported the goals and concept of the proposal, but many suggestions were made that resulted in significant changes in the final rule.

With the issuance of this final rule, the Federal Energy Administration (FEA) amends Chapter II of Title 10, Code of Federal Regulations, to establish a program of weatherization assistance for low-income persons pursuant to Part A, 42 U.S.C. 6861-6872, of Title IV of the Energy Conservation and Production Act (Act), Pub. L. 94-385, 90 Stat. 1125 et seq.

Although most of the comments FEA received addressed specific sections or items in the proposed rulemaking, some comments were more general. Thirteen commenters expressed the view that grants should be made directly to Community Action Agencies (CAA's) to avoid creating a new bureaucracy. Since the enabling legislation provides, with certain clearly defined exceptions, that funding for weatherization projects must be administered by the States, FEA has not incorporated this suggestion in the final rulemaking.

Twelve commenters recommended that FEA should model its guidelines more closely after those developed by the Community Services Administration (CSA) for its weatherization program. However, since the Act delegates responsibility for implementing the legislation, which is markedly different in many respects from CSA's authorizing legisla-

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Title 10—Energy  
CHAPTER II—FEDERAL ENERGY  
ADMINISTRATION

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PART 440—WEATHERIZATION  
ASSISTANCE FOR LOW-INCOME PERSONS  
Establishment of Regulations

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: The Federal Energy Administration (FEA) hereby establishes regulations for a program of weatherization assistance for low-income persons. These regulations set forth the requirements for the development and implementation of a weatherization program to assist in achieving a healthful dwelling environment and maximum practicable energy conservation in the dwellings of low-income persons, particularly elderly and handicapped low-income persons, in order both to aid

tion, to FEA, FEA's guidelines must articulate the requirements of the Act.

Three commenters suggested that FEA should coordinate with CSA, Department of Labor (DOL) and the Administration on Aging (AOA) in developing regulations. FEA is sensitive to the importance of coordination with other agencies but considers that the extent to which it has coordinated its activities with those of other relevant agencies is sufficient.

#### B. DEFINITIONS—§ 440.3

FEA received six comments on the definitions in the proposed rulemaking, all of which suggested that ventilation and vapor barriers should be specifically included under "weatherization materials." The final guidelines have added vapor barriers to the materials cited in the proposed definition. Furthermore, some of the definitions have been modified, some eliminated and others added, either to clarify language used in the proposed regulation or to reflect changes made by the final rulemaking. Specifically, the following revisions have been made—"annual degree days" has been eliminated and "cooling degree days" and "heating degree days" have been added in order to clarify the allocation formula; "Indian" has been replaced by "Native American"; "sub-grantee" has been defined more precisely; and definitions of "local applicant" and "CETA", as an abbreviation for the Comprehensive Employment and Training Act of 1973, have been added.

#### C. ALLOCATION OF FUNDS—§ 440.10

Proposed § 440.10 sets forth the allocation provisions for funding of the program. Two comments were received stating that allocating a base of \$100,000 to each State is unjustified because of the great difference in need between the States. With one exception, FEA believes that the need factor is adequately treated by the percentage allocation provided by the proposed formula. With the exception of Alaska, each State will be allocated a base of \$100,000.

FEA has received three comments regarding Alaska's allocation under the formula. The commenters have recommended that Alaska be exempted from the allocation formula and that Alaska's allocation be determined separately. Because of these comments as well as the reasons indicated in the proposed rulemaking, FEA believes an adjustment is merited. Accordingly, Alaska will be given a base allocation of \$200,000 which is double the amount awarded to each of the other States. FEA believes that with this adjustment adequate provision has been made to address the unique problems encountered in Alaska.

FEA has retained in this final regulation the proposed formula for establishing the percent of each State's share of the remaining appropriated funds.

Twelve comments were received questioning FEA's assumption that the cost of weatherizing a multi-family unit is half the cost of weatherizing a single family unit. No reasonable alternatives were proposed in these comments, nor

was any hard data (on a nationwide basis) produced. FEA will retain the 0.5 factor assigned to renter-occupied dwelling units because, although an approximation, it represents a reasonable and workable correlation between the cost of weatherizing this type of dwelling unit and the greater cost of weatherizing single-family dwelling units.

Six commenters recommended that degree days not be squared because squaring overemphasizes climate in comparison to the number of dwelling units eligible for assistance. FEA has concluded, however, that squaring the degree day factor places a greater emphasis on the States with extremes of climate where the greatest need for weatherization and potential for energy conservation is found.

Four comments were received recommending that more emphasis be given to cooling degree days in the formula because the proposed formula was biased in favor of the colder States. Four comments were received recommending that even greater weight be given to heating degree days because weighting the funds in favor of the Northern tier will yield the greatest energy savings. FEA has retained the weighting provided by the percentages of total residential energy used for heating or cooling respectively in the proposed formula because it is consistent with the potential for energy savings.

One commenter recommended inclusion in the formula of a factor for regional cost of living differences, and another recommended a factor for the number of senior citizens in a State. FEA has concluded, however, that the factors included in the formula are sufficient to distribute the funds equitably. A factor for senior citizens is unnecessary because the Act requires that priority be given to assisting elderly low-income persons. Moreover, most weatherization projects in operation at this time report expending 80-90 percent of their resources for weatherizing the dwellings of the low-income elderly. A factor for regional cost of living differences is unnecessary because, in general, those areas with a higher cost of living are the Northern Tier States which are already receiving a greater share of the available funds than the "sunbelt" States. With respect to Alaska, the Office of Management and Budget (OMB) Poverty Guidelines take into account regional cost of living differences by increasing the poverty level to 25 percent above that established for the other States.

#### D. STATE APPLICATIONS—§ 440.12

Proposed § 440.12 sets forth the application procedures for a State.

One commenter recommended that FEA require the participation of State agencies on aging and State agencies assisting handicapped individuals in need of weatherization. This commenter also recommended that these agencies be permitted to participate in the development of priorities for the provision of weatherization assistance to elderly and handicapped individuals. It should be noted

that the regulation does not restrict the participation of interested persons in the development of the State plan and that these persons may present their views at the public hearing for the proposed plan. FEA wishes to give the States maximum flexibility in the planning phase of the program and declines to mandate the participation of any particular organization.

FEA will require the budget to include a justification and explanation of any amounts which an applicant seeks to expend for tools and equipment or transportation costs or vehicle repair or insurance. This provision is necessary to make certain that the limited funding available will be used to the maximum extent practicable to purchase weatherization materials.

FEA has also made minor technical revisions to proposed § 440.12 but the final version contains no additional substantive changes or additional submission requirements.

#### E. LOCAL APPLICATIONS—§ 440.13

FEA has revised proposed § 440.13 to provide greater clarity. Only one substantive change was made: to require the Regional Administrator to give written notice to all local applicants in a State if a State does not participate in the program. The 30 day application period for a local applicant only commences to run upon receipt of written notice. FEA believes this creates a fairer opportunity for local applicants by putting them on notice of their potential eligibility for direct funding.

Three commenters recommended that the definition of "local applicant" include non-profit corporations, consortia of local agencies, and other community based organizations. There may be many organizations other than CAA's, units of general purpose local government, and Indian tribal councils which are capable of establishing and operating a weatherization project. However, FEA is restricted to its definition of local applicant by the Act.

#### F. ADMINISTRATIVE REQUIREMENTS—§ 440.14

Three commenters recommended that the final rulemaking should provide a right of appeal for a CAA which applied for, and was denied, allocation or priority funding. FEA is concerned that permitting a CAA to appeal the denial of funding to a Regional Administrator could unduly delay approval of a State plan, thereby preventing timely distribution of funds to other sub-grantees. Although the final rulemaking does not permit a CAA to appeal a denial of funding, final § 440.14(e) requires that a Governor or Regional Administrator, in determining whether or not a CAA's emergency energy conservation program has been effective in meeting the purpose of the Act or has the capacity to support a weatherization project of the scope for which the grant application was made, shall consider specific factors. These factors were not included in the proposed regulation. The regulation now requires

















