

# Proposed Plan for Energy Stimulus Funds Cover Sheet

**Name of Agency:** Maine Public Utilities Commission

**Contact:**

Karen Geraghty, Administrative Director: [karen.geraghty@maine.gov](mailto:karen.geraghty@maine.gov), 287-1353

**Bureau administering funds:** Energy Programs Division

**Contacts:**

John Brautigam, Director, Energy Programs Division: [john.r.brautigam@maine.gov](mailto:john.r.brautigam@maine.gov), 287-1594

Tim Vrabel, Deputy Director, Energy Programs Division: [timothy.j.vrabel@maine.gov](mailto:timothy.j.vrabel@maine.gov), 287-7343

Shirley Bartlett, Program Manager, State Energy Program: [shirley.bartlett@maine.gov](mailto:shirley.bartlett@maine.gov), 287-3318

**Whether funds are subject to state allocation:** Yes

**Legislative committees to receive plan and documents:**

- Joint Select Committee on Maine's Energy Future
- Utilities and Energy Committee
- Appropriations and Financial Affairs Committee

**Amount of funds expected to be received/quarter:**

*Please note: the US DOE has announced that it will not disburse funds quarterly but instead will employ the following formula. We anticipate that the initial award may occur within the final quarter of FY 2009. The timing of other disbursements is difficult to forecast.*

- 10% upon initial award by DOE
- 40% upon DOE approval of State Energy Program Plan
- 20% when 50% of previously allocated funds are obligated, assuming compliance with reporting requirements
- remainder upon continued progress in obligated funds, complying with reporting and creating jobs

**Summary of expected/authorized use of funds:**

Funds will be used to create and expand programs in four major areas:

- Home energy efficiency initiatives
- Business/industry/nonprofit matching grants
- Workforce development and outreach
- Building and energy codes training

**Citation of federal laws and regulations governing use of funds**

- The State Energy Program is authorized under the following federal Acts: PL 94-385, PL 94-163, PL 95-619, PL 94-580, PL 101-440, PL 102-486, PL 109-58, and PL-111-5
- Federal laws governing the use of funds are: the American Recovery and Reinvestment Act, H.R. 1; the Energy Policy and Conservation Act, 42 U.S.C. 6321 – 6326; and the Energy Independence and Security Act, 42 U.S.C. 17151 et seq.
- DOE Guidance, provided in FOA Number DE-FOA-0000052, also governs the use of the ARRA formula grant.

**Federal agency disbursing funds:** U.S. Department of Energy

**Contact:** Teresa Jones: [Teresa.Jones@netl.doe.gov](mailto:Teresa.Jones@netl.doe.gov), (304) 285-4057

## Proposed Plan for Energy Stimulus Funds

### I. Introduction:

The Energy Programs Division of the Maine Public Utilities Commission is pleased to submit this plan in fulfillment of the Legislative Resolve dated February 19, 2009. The following plan has been crafted to serve the goals previously established for the state by the Governor and Legislature, consistent with federal law.

The American Recovery and Reinvestment Act (ARRA) was enacted “to preserve and create jobs and promote economic recovery.” H.R. 1 Sec. 3(a)(1) 2009. Significant federal priorities include *promoting energy efficiency and renewable energy, deploying funds rapidly, and ensuring that stimulus funds will be used for new programs or the expansion of existing programs and will not supplant existing state, ratepayer or other funding.* These expectations are parallel to priorities and goals assigned by the legislature to the MPUC Energy Division and State Energy Program (SEP), and will guide all programs that are supported by stimulus funds.

In considering how best to deploy the federal stimulus funds designated for Maine<sup>1</sup>, the State Energy Program consulted with other state agencies knowledgeable about energy efficiency, including the Office of the Governor, the Maine Department of Environmental Protection, the Office of Energy Independence and Security, the State Planning Office, and the Maine State Housing Authority. These consultations were guided by the following principles:

- Leverage private capital to maximize impact and longevity of stimulus investment
- Create lasting jobs
- Keep programs simple and administratively efficient
- Utilize successful existing program structures whenever possible
- Align the stimulus investment with Maine’s Comprehensive Energy Plan
- Disburse stimulus funds quickly and in an equitable manner
- Measure and verify program results
- Reduce carbon output and document reductions
- Ensure equitable geographic distribution of the programs
- Provide the means to allow our state government to lead by example
- Collaborate with other state or nonprofit entities to maximize the synergies of combining capabilities and resources in our state and region

In addition, the guidelines provided by the federal Department of Energy mention the following guiding principles for use of the federal funds:

- Target strategic market intervention that can cause permanent structural change.

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<sup>1</sup> Federal law provides that the relevant stimulus funds are to be disbursed to the State Energy Program within each state. Under Maine law, the State Energy Program is administered by the Public Utilities Commission.

- Identify opportunities for better integration of SEP and state energy initiatives to other market transformation activities.
- Replicate state innovation and best practices
- Promote collaboration across public and private agencies
- Foster regional collaboration among state and federal agencies
- Improve the way we measure program performance and communicate success

On March 12, 2009 the United States DOE issued its guidance in which the State Energy Programs were informed of the amount of funding that would be available. (FOA Number DE-FOA-0000052). The Maine State Energy Program allocation from the ARRA will be \$27,305,000.<sup>2</sup>

Considering the federal priorities, and based on the PUC's and Efficiency Maine's experience administering energy efficiency and renewable energy programs for the past seven years, we have developed a flexible plan consisting of four program areas. It combines projects with a decisive short-term impact with those that will help build long-term sustainability long after the stimulus dollars are spent. We believe the plan will advance the market transformation goals established in state and federal law and policy.

## **II. Program Areas:**

This plan includes funding for four separate program areas:

1. Incentives for homeowners;
2. Incentives for industry, businesses, and organizations;
3. Workforce development support, including training and outreach for green collar jobs and renewable energies; and
4. Assistance for communities training building and energy codes enforcement officers.

This plan was developed to enhance and expand existing successful programs operated by Efficiency Maine; to fulfill the requirements of federal law (as further explained by guidance issued by the DOE); and to comply with the Resolve of the legislature passed on February 19, 2009.

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<sup>2</sup> The ARRA also provides State Energy Programs with separate, additional funding through the Energy Efficiency and Conservation Block Grant (EECBG). The EECBG is intended to help local governments, cities, and counties implement strategies to encourage energy efficiency and renewable energy initiatives. The Federal DOE has not yet announced the amount of funding or issued guidance regarding the EECBG program. The EECBG block grant program was created in Sec. 545 of the Energy Independence and Security Act of 2007. That Act was never funded, leaving the SEP with little guidance regarding the allocation of funds or program guidelines. The ARRA appropriates \$2.8 Billion for EECBG grants across the country, of which 28% is allocated to the State Energy Programs. Under federal law, the SEP must in turn re-grant 60% of the amount it receives to units of local government. Considering those factors, as well as Maine's population relative to the rest of the country, a rough estimate of the EECBG discretionary funding to be provided to the Maine State Energy Program would be between \$1 and \$2 million. We will notify the Committees of the exact amount as well as provide copies of any federal guidelines as soon as they are released by the Federal DOE. The EECBG funding is not included in the \$27.3 million described in the plan submitted herein.

## **Proposed Program Initiatives:**

### **A. Incentives for non-low income homeowners (\$10 million total)**

A great number of Maine homes need weatherization and improvement, representing an immediate opportunity for achieving efficiencies, saving money for Maine families, and stimulating the economy. Insulation and weatherization are achievable, low-tech and rapidly expandable program options for greatly reducing wasteful home heating and energy use, promising a high return on investment for each dollar spent.

Although the goals for expanding home weatherization are ambitious, we believe that an aggressive training program and incentives will enable the prompt ramp-up envisioned by federal law. It is important to note that separate federal stimulus funding targeted to low-income families is designated for the Maine State Housing Authority. Accordingly, this component of the plan will focus on non-low income homeowners.

This initiative will be conducted in cooperation with our existing network of Maine builders and contractors, as well as with local Maine banks and credit unions. We anticipate that the impact of this portion of the plan will be amplified by leveraging significant private loan funds.

Components of the plan for homeowners include the following:

- Increase training for professional, certified auditors to provide home energy audits for families not eligible for low-income weatherization funds. **(\$1,000,000)**
- Facilitate energy audits and weatherization through certified contractors, providing incentives for any home completing a qualifying energy audit and/or system upgrade. This will be implemented in conjunction with local Maine banks and credit unions. **(\$7,000,000)**
- Cost sharing for homeowner furnace/boiler tune-ups and installation of programmable thermostats. This will be coordinated through one or more associations of heating fuel providers. **(\$2,000,000)**

### **B. Incentives for Businesses and Organizations (\$13 million total)**

Maine businesses are hard hit by the economic downturn, and disproportionately burdened by high energy costs. The commercial and industrial sector also provides opportunities for prompt and effective utilization of stimulus funds.

After consultation with Efficiency Maine program managers, technical support team and statewide trade allies, we are poised to expand as necessary from our initial emphasis on electricity efficiency toward the broader “all fuels” energy market. With some modest program modifications and enhancements, and with the ongoing collaboration of businesses statewide, the existing efficiency program personnel and program structure are prepared to deliver an expanded menu of meaningful and effective incentives for

businesses, municipalities, non-profits, and churches. Efficiency Maine has extensive experience in verifying and measuring all efficiency results, and will continue to monitor these incentives for long-term cost effectiveness in furtherance of state and federal policy.

This component of the plan will provide matching grants and loan guarantees to businesses, industries, not-for-profit organizations and government entities, targeting major investments in all-fuels energy efficiency, combined heat and power, solar, wind, geothermal, biomass boilers, and other renewable, indigenous resources.

Components of the plan for businesses and organizations include the following:

- Provide grants for energy efficiency engineering studies in businesses **(\$1,000,000)**.
- Expand commercial energy audit services and offer 50% grants up to up to \$15,000 incentive payments to businesses that install energy saving measures. **(\$3,000,000)**
- Increase the business loan fund (operated in cooperation with FAME) to \$3,000,000 and reduce the interest rate to 1%. **(\$4,000,000)**
- Implement up to four regional demonstration projects in different parts of the state to illustrate the value of energy efficient technologies. **(\$2,000,000)**
- Fund a program to help builders and business owners achieve up-front efficiencies in commercial new construction design. **(\$1,500,000)**
- Assist municipalities through collaboration with MDOT in the adoption of improved traffic management practices including traffic light sequencing and installation of LED traffic signals. **(\$1,500,000)**

### **C. Workforce Development (\$3.8 million total)**

Providing support for establishing a high quality, trained energy efficiency workforce in this rapidly changing market is an important part of fulfilling the joint goals of creating jobs and reducing energy use. This portion of the plan would focus federal stimulus funds on developing and delivering the most up-to-date curriculum and training for green contractors, builders, architects, and workers and professionals in related fields.

Through close cooperation with high school technical centers, community colleges and universities, this plan would establish a nationally certified “Energy Industry” curriculum to define related fields and jobs. Marketing these opportunities to the public to ensure that training and job opportunities are well understood is an important component. These initiatives will help the public understand the interrelated disciplines and the potential for employment, allowing Maine to brand itself as an emerging “Green” industry state.

Components of the plan relating to workforce development include the following:

- Boost the Renewable Energy Resource grant fund for schools and communities (now supported through electric customer voluntary contributions). This effort will build on the existing relationship between Efficiency Maine and the Maine Technology Institute to illustrate how renewable energy projects create jobs and reduce costs through local power generation. The increased grant funding would also promote in-state technology strengths. **(\$1,000,000)**
- Increase the solar thermal, photovoltaic, and wind rebate program funding and include other technologies such as geothermal. Existing funding has consistently fallen short of the high demand for these programs. **(\$500,000)**
- Expand the anemometer program, resources for Maine’s Wind Working Group, a community wind website, and other informational resources about wind power for Maine residents. **(\$200,000)**
- Establish a Green Collar framework fund that will underwrite the curriculum development and educational structure for the “New Energy Industry” in Maine. **(\$1,500,000)**
- Work closely with the Department of Labor and state educational institutions to establish a “scholarship” fund to subsidize re-education of unemployed workers. **(\$600,000)**

#### **D. Building and Energy Codes Training (\$500,000 total)**

Building professionals and local officials in Maine are grappling with a new state building code and rapidly changing building materials and technologies. Accordingly, the State Energy Plan building and energy codes training initiative will provide funding to train local code enforcement officers, contractors and builders. Funding is intended for two years as officials and home building professionals come into compliance with the new code by 2010. This is especially important during a period of economic downturn, where local governments are collecting less revenue through commercial and residential building fees. By the time building activity in the state returns to normal levels, the program should be self sustaining.

- Fund training for an accelerated Building and Energy Codes plan that will help communities comply with the higher residential and commercial standards scheduled to take effect on January 1, 2010. Provide incentives for exceeding baseline recommendations and offer a “full scholarship” program to maximize participation by all communities.

#### **Administrative Costs and Overhead Expenses:**

The structure of Efficiency Maine and the State Energy Program have allowed the Public Utilities Commission to operate an effective program with low administrative overhead. We have developed and worked with a Delivery Team and Trade Ally network for many years. Our skeletal staff manages the statewide delivery of programs offered to Maine's residents, businesses and industry as well as a multitude of educational and training programs for individuals and schools. Further, Efficiency Maine has a history of creating alliances among state, non-profit, regional, and private sector entities to collaborate on projects, reducing redundancy and leveraging the time, talent and funding of a diverse group of stakeholders and experts. A 2008 study of 15 regional programs ranked Efficiency Maine as the lowest in administrative cost per kilowatt-hour saved.

Nonetheless some administrative burdens will increase as we manage the expanded programs made possible by the federal stimulus funding. In addition, any effort to achieve "market transformation" requires significant public education and communication. We will develop a more detailed budget including these elements following legislative and executive branch input on the proposed plan.<sup>3</sup> But we do feel it important to note that all sums indicated in this proposal are net of marketing and any approved administrative costs.

Efficiency Maine will continue to rigorously manage administrative costs in order to optimize funding for programs to reduce excessive energy use, stimulate the economy and create jobs in Maine.

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<sup>3</sup> The State Energy Program estimates it may require 3 to 5 additional staff to effectively manage, administer and track the programs. Our current estimate for education and outreach is also being assembled at this time.

## Discretion for Use of Stimulus Funds

The ARRA guidance provided by the DOE specifies:

***“States should plan for and maximize efforts toward achieving the specific goal of reducing per capita energy consumption by at least 25 percent of the State’s 1990 per capita energy use by 2012. This is a minimum goal; higher or more stringent goals are encouraged. In choosing the specific programs or projects that make up this plan, states should choose those which will make the maximum contribution to achieving this overall goal. States are encouraged to use their ARRA funding not only to support current energy efficiency and renewable energy projects but also to seed sustainable programs and put in place long-term funding mechanisms such as revolving loans and energy savings performance contracting that will provide lasting benefits and lead to long-term market transformation.”***

The following programs are described by the DOE as “permitted activities” for State Energy Program when using funds from the ARRA:

- Demonstrations of commercially available energy efficiency or renewable energy techniques;
- Regular or revolving loan mechanisms to fund SEP services;
- Purchase and installation of equipment and materials for energy efficiency measures and renewable energy measures, including reasonable design costs, subject to certain terms and conditions;
- A variety of financial incentives to fund purchases and installation of materials and equipment including, but not limited to, regular loans, revolving loans, loan buy-downs, performance contracting, rebates and grants;
- Public education programs to promote energy efficiency, renewable energy, and alternative transportation fuels;
- Activities to increase transportation energy efficiency, including programs to accelerate the use of alternative transportation fuels for government vehicles, fleet vehicles, taxis, mass transit, and privately owned vehicles;
- Activities for encouraging and for carrying out energy audits with respect to buildings and industrial facilities (including industrial processes) within the State;
- Activities to modify patterns of energy consumption so as to reduce peak demands for energy and improve the efficiency of energy supply systems, including electricity supply systems;
- Activities to promote energy efficiency as an integral component of economic development planning conducted by State, local, or other governmental entities or by energy utilities;
- activities to provide training and education to building designers and contractors involved in building design and construction or in the sale, installation, and maintenance of energy systems and equipment to promote building energy efficiency;
- Activities for the development of building retrofit standards and regulations, including retrofit ordinances enforced at the time of the sale of a building;

- Activities to provide support for feasibility studies for projects that utilize renewable energy and energy efficiency resource technologies in order to facilitate access to capital and credit for such projects;
- Activities to facilitate and encourage the voluntary use of renewable energy technologies;
- Activities to implement the Energy Technology Commercialization Services Program, including establishing State-level Energy Technology Commercialization Services Program as an optional element of State plans; the program activities to implement the functions of the Energy Technology Commercialization Services Program shall aid small and start-up businesses in discovering useful and practical information relating to manufacturing and commercial production techniques and costs associated with new energy technologies.

**Legislative and Regulatory Documentation**

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***Please Note:** the regulations historically governing grants from the DOE to the Maine SEP are contained in 10 CFR 420 and 10 CFR 600. These and any regulations that are adopted for EECBG funds will be provided upon request.*

# **I. American Recovery and Reinvestment Act of 2009 (ARRA):**

H. R. 1

One Hundred Eleventh Congress of the United States of America

**AT THE FIRST SESSION**

*Begun and held at the City of Washington on Tuesday, the sixth day of January, two thousand and nine*

An Act: Making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. SHORT TITLE.* This Act may be cited as the “American Recovery and Reinvestment Act of 2009”.

## **TITLE IV—ENERGY AND WATER DEVELOPMENT**

### **DEPARTMENT OF ENERGY, ENERGY PROGRAMS ENERGY EFFICIENCY AND RENEWABLE ENERGY**

For an additional amount for “Energy Efficiency and Renewable Energy”, \$16,800,000,000: *Provided*, That \$3,200,000,000 shall be available for Energy Efficiency and Conservation Block Grants for implementation of programs authorized under subtitle E of title V of the Energy Independence and Security Act of 2007 (42 U.S.C. 17151 et seq.), of which \$2,800,000,000 is available through the formula in subtitle E: *Provided further*, That the Secretary may use the most recent and accurate population data available to satisfy the requirements of section 543(b) of the Energy Independence and Security Act of 2007: *Provided further*, That the remaining \$400,000,000 shall be awarded on a competitive basis: *Provided further*, That \$5,000,000,000 shall be for the Weatherization Assistance Program under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.): *Provided further*, That \$3,100,000,000 shall be for the State Energy Program authorized under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321): *Provided further*, That \$2,000,000,000 shall be available for grants for the manufacturing of advanced batteries and components and the Secretary shall provide facility funding awards under this section to manufacturers of advanced battery systems and vehicle batteries that are produced in the United States, including advanced lithium ion batteries, hybrid electrical systems, component manufacturers, and software designers: *Provided further*, That notwithstanding section 3304 of title 5, United States Code, and without regard to the provisions of sections 3309 through 3318 of such title 5, the Secretary of Energy, upon a determination that there is a severe shortage of candidates or a critical hiring need for particular positions, may from within the funds provided, recruit and directly appoint highly qualified individuals into the competitive service: *Provided further*, That such authority shall not apply to positions in the Excepted Service or the Senior Executive Service: *Provided further*, That any action authorized herein shall be consistent with the merit principles of section 2301 of

such title 5, and the Department shall comply with the public notice requirements of section 3327 of such title 5.

## II. Energy Policy and Conservation Act, 42 USC 6321 – 6326:

- [United States Code](#)
  - [TITLE 42 - THE PUBLIC HEALTH AND WELFARE](#)
    - [CHAPTER 77 - ENERGY CONSERVATION](#)
      - [SUBCHAPTER III - IMPROVING ENERGY EFFICIENCY](#)
        - [PART B - STATE ENERGY CONSERVATION PLANS](#)

*U.S. Code as of: 01/19/04*

### Section 6321. Congressional findings and declaration of purpose

(a) The Congress finds that

(1) the development and implementation by States of laws, policies, programs, and procedures to conserve and to improve efficiency in the use of energy will have an immediate and substantial effect in reducing the rate of growth of energy demand and in minimizing the adverse social, economic, political, and environmental impacts of increasing energy consumption;

(2) the development and implementation of energy conservation programs by States will most efficiently and effectively minimize any adverse economic or employment impacts of changing patterns of energy use and meet local economic, climatic, geographic, and other unique conditions and requirements of each State; and

(3) the Federal Government has a responsibility to foster and promote comprehensive energy conservation programs and practices by establishing guidelines for such programs and providing overall coordination, technical assistance, and financial support for specific State initiatives in energy conservation. (b) It is the purpose of this part to promote the conservation of energy and reduce the rate of growth of energy demand by authorizing the Secretary to establish procedures and guidelines for the development and implementation of specific State energy conservation programs and to provide Federal financial and technical assistance to States in support of such programs.

### Section 6322. State energy conservation plans

(a) Feasibility reports

The Secretary shall, by rule, within 60 days after December 22, 1975, prescribe guidelines for the preparation of a State energy conservation feasibility report. The Secretary shall invite the Governor of each State to submit, within 3 months after the effective date of such guidelines, such a report. Such report shall include

(1) an assessment of the feasibility of establishing a State energy conservation goal, which goal shall consist of a reduction, as a result of the implementation of the State energy conservation plan described in this section, of 5 percent or more in the total amount of energy consumed in such State in the year 1980 from the projected energy consumption for such State in the year 1980, and

(2) a proposal by such State for the development of a State energy conservation plan to achieve such goal.

(b) Guidelines

The Secretary shall, by rule, within 6 months after December 22, 1975, prescribe guidelines with respect to measures required to be included in, and guidelines for the

development, modification, and funding of, State energy conservation plans. The Secretary shall invite the Governor of each State to submit, within 5 months after the effective date of such guidelines, a report. Such report shall include

- (1) a proposed State energy conservation plan designed to result in scheduled progress toward, and achievement of, the State energy conservation goal of such State; and
- (2) a detailed description of the requirements, including the estimated cost of implementation and the estimated energy savings, associated with each functional category of energy conservation included in the State energy conservation plan.

(c) Mandatory features of plans Each proposed State energy conservation plan to be eligible for Federal assistance under this part shall include

- (1) mandatory lighting efficiency standards for public buildings (except public buildings owned or leased by the United States);
- (2) programs to promote the availability and use of carpools, vanpools, and public transportation (except that no Federal funds provided under this part shall be used for subsidizing fares for public transportation);
- (3) mandatory standards and policies relating to energy efficiency to govern the procurement practices of such State and its political subdivisions;
- (4) mandatory thermal efficiency standards and insulation requirements for new and renovated buildings (except buildings owned or leased by the United States);
- (5) a traffic law or regulation which, to the maximum extent practicable consistent with safety, permits the operator of a motor vehicle to turn such vehicle right at a red stop light after stopping and to turn such vehicle left from a one-way street onto a one-way street at a red light after stopping; and
- (6) procedures for ensuring effective coordination among various local, State, and Federal energy conservation programs within the State, including any program administered within the Office of Technical and Financial Assistance of the Department of Energy and the Low Income Home Energy Assistance Program administered by the Department of Health and Human Services.

(d) Optional features of plans Each proposed State energy conservation plan may include -

- (1) restrictions governing the hours and conditions of operation of public buildings (except buildings owned or leased by the United States);
- (2) restrictions on the use of decorative or nonessential lighting;
- (3) programs to increase transportation energy efficiency, including programs to accelerate the use of alternative transportation fuels for State government vehicles, fleet vehicles, taxis, mass transit, and privately owned vehicles;
- (4) programs of public education to promote energy conservation;
- (5) programs for financing energy efficiency and renewable energy capital investments, projects, and programs -

(A) which may include loan programs and performance contracting programs for leveraging of additional public and private sector funds, and programs which allow rebates, grants, or other incentives for the purchase and installation of energy efficiency and renewable energy measures; or

(B) in addition to or in lieu of programs described in subparagraph (A), which may be used in connection with public or nonprofit buildings owned and operated by a State, a

political subdivision of a State or an agency or instrumentality of a State, or an organization exempt from taxation under section 501(c)(3) of title 26;

(6) programs for encouraging and for carrying out energy audits with respect to buildings and industrial facilities (including industrial processes) within the State;

(7) programs to promote the adoption of integrated energy plans which provide for -

(A) periodic evaluation of a State's energy needs, available energy resources (including greater energy efficiency), and energy costs; and

(B) utilization of adequate and reliable energy supplies, including greater energy efficiency, that meet applicable safety, environmental, and policy requirements at the lowest cost;

(8) programs to promote energy efficiency in residential housing, such as

(A) programs for development and promotion of energy efficiency rating systems for newly constructed housing and existing housing so that consumers can compare the energy efficiency of different housing; and

(B) programs for the adoption of incentives for builders, utilities, and mortgage lenders to build, service, or finance energy efficient housing;

(9) programs to identify unfair or deceptive acts or practices which relate to the implementation of energy efficiency measures and renewable resource energy measures and to educate consumers concerning such acts or practices;

(10) programs to modify patterns of energy consumption so as to reduce peak demands for energy and improve the efficiency of energy supply systems, including electricity supply systems;

(11) programs to promote energy efficiency as an integral component of economic development planning conducted by State, local, or other governmental entities or by energy utilities;

(12) in accordance with subsection (f)(2) of this section, programs to implement the Energy Technology Commercialization Services Program;

(13) programs (enlisting appropriate trade and professional organizations in the development and financing of such programs) to provide training and education (including, if appropriate, training workshops, practice manuals, and testing for each area of energy efficiency technology) to building designers and

contractors involved in building design and construction or in the sale, installation, and maintenance of energy systems and equipment to promote building energy efficiency improvements;

(14) programs for the development of building retrofit standards and regulations, including retrofit ordinances enforced at the time of the sale of a building;

(15) support for prefeasibility and feasibility studies for projects that utilize renewable energy and energy efficiency resource technologies in order to facilitate access to capital and credit for such projects;

(16) programs to facilitate and encourage the voluntary use of renewable energy technologies for eligible participants in Federal agency programs, including the Rural Electrification Administration and the Farmers Home Administration; and

(17) any other appropriate method or programs to conserve and to promote efficiency in the use of energy.

(e) Standby plans

The Governor of any State may submit to the Secretary a State

energy conservation plan which is a standby energy conservation plan to significantly reduce energy demand by regulating the public and private consumption of energy during a severe energy supply interruption, which plan may be separately eligible for Federal assistance under this part without regard to subsections (c) and (d) of this section.

(f) Energy Technology Commercialization Services Program

(1) The purposes of this subsection are to -

(A) strengthen State outreach programs to aid small and start-up businesses;

(B) foster a broader application of engineering principles and techniques to energy technology products, manufacturing, and commercial production by small and start-up businesses; and

(C) foster greater assistance to small and start-up businesses in dealing with the Federal Government on energy technology related matters.

(2) The programs to implement the functions of the Energy Technology Commercialization Services Program, as provided for by subsection (d)(12) of this section, shall -

(A) aid small and start-up businesses in discovering useful and practical information relating to manufacturing and commercial production techniques and costs associated with new energy technologies;

(B) encourage the application of such information in order to solve energy technology product development and manufacturing problems;

(C) establish an Energy Technology Commercialization Services Program affiliated with an existing entity in each State;

(D) coordinate engineers and manufacturers to aid small and start-up businesses in solving specific technical problems and improving the cost effectiveness of methods for manufacturing new energy technologies;

(E) assist small and start-up businesses in preparing the technical portions of proposals seeking financial assistance for new energy technology commercialization; and

(F) facilitate contract research between university faculty and students and small start-up businesses, in order to improve energy technology product development and independent quality control testing.

(3) Each State energy technology commercialization services program shall develop and maintain a data base of engineering and scientific experts in energy technologies and product commercialization interested in participating in the service. Such data base shall, at a minimum, include faculty of institutions of higher education, retired manufacturing experts, and national laboratory personnel.

(4) The services provided by the energy technology commercialization services programs established under this subsection shall be available to any small or start-up business. Such service programs shall charge fees which are affordable to a party eligible for assistance, which shall be determined by examining factors, including the following: (A) the costs of the services received; (B) the need of the recipient for the services; and (C) the ability of the recipient to pay for the services.

(5) For the purposes of this subsection, the term -

(A) "institution of higher education" has the same meaning as such term is defined in section 1001 of title 20;

(B) "small business" means a private firm that does not exceed the numerical size standard promulgated by the Small Business Administration under section 632(a) of title 15 for the Standard Industrial Classification (SIC) codes designated by the Secretary of Energy; and

(C) "start-up business" means a small business which has been in existence for 5 years or less.

### **Section 6323. Federal assistance to States**

(a) Information, technical assistance, and assistance in preparation of reports and development, implementation, or modification of energy conservation plan

Upon request of the Governor of any State, the Secretary shall provide, subject to the availability of personnel and funds, information and technical assistance, including model State laws and proposed regulations relating to energy conservation, and other assistance in -

(1) the preparation of the reports described in section 6322 of this title, and

(2) the development, implementation, or modification of an energy conservation plan of such State submitted under section 6322(b) or (e) of this title.

(b) Financial assistance to assist State in development, implementation, or modification of energy conservation plan; submission of plan to and approval of Secretary; considerations governing approval; amount of assistance

(1) The Secretary may grant Federal financial assistance pursuant to this section for the purpose of assisting such State in the development of any such energy conservation plan or in the implementation or modification of a State energy conservation plan or part thereof which has been submitted to and approved by the Secretary pursuant to this part.

(2) In determining whether to approve a State energy conservation plan submitted under section 6322(b) or (e) of this title, the Secretary -

(A) shall take into account the impact of local economic,

climatic, geographic, and other unique conditions and requirements of such State on the opportunity to conserve and to improve efficiency in the use of energy in such State; and

(B) may extend the period of time during which a State energy conservation feasibility report or State energy conservation plan may be submitted if the Secretary determines that participation by the State submitting such report or plan is likely to result in significant progress toward achieving the purposes of this chapter.

No such plan shall be disapproved without notice and an opportunity to present views.

(3) In determining the amount of Federal financial assistance to be provided to any State under this subsection, the Secretary shall consider -

(A) the contribution to energy conservation which can reasonably be expected,

(B) the number of people affected by such plan, and

(C) the consistency of such plan with the purposes of this chapter, and such other factors as the Secretary deems appropriate.

(c) Records

Each recipient of Federal financial assistance under subsection (b) of this section shall keep such records as the Secretary shall require, including records which fully disclose the amount and disposition by each recipient of the proceeds of such assistance, the total cost of the plan, program, projects, measures, or systems for which such assistance was given or used, the source and amount of funds for such plan, program, projects, measures, or systems not supplied by the Secretary, and such other records as the Secretary determines necessary to facilitate an effective audit and performance evaluation. The Secretary and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination, at reasonable times and under reasonable conditions, to any pertinent books, documents, papers, and records of any recipient of Federal assistance under this part.

(d) Assistance as supplementing and not supplanting State and local funds

Each State receiving Federal financial assistance pursuant to this section shall provide reasonable assurance to the Secretary that it has established policies and procedures designed to assure that Federal financial assistance under this part and under part E of this subchapter will be used to supplement, and not to supplant, State and local funds, and to the extent practicable, to increase the amount of such funds that otherwise would be available, in the absence of such Federal financial assistance, for those programs set forth in the State energy conservation plan approved pursuant to subsection (b) of this section.

(e) Energy emergency planning program as prerequisite to assistance

(1) Effective October 1, 1991, to be eligible for Federal financial assistance pursuant to this section, a State shall submit to the Secretary, as a supplement to its energy conservation plan, an energy emergency planning program for an energy supply disruption, as designed by the State consistent with applicable Federal and State law. The contingency plan provided for by the program shall include an implementation strategy or strategies (including regional coordination) for dealing with energy emergencies. The submission of such plan shall be for informational purposes only and without any requirement of approval by the Secretary.

(2) Federal financial assistance made available under this part to a State may be used to develop and conduct the energy emergency planning program requirement referred to in paragraph (1).

(f) State buildings energy efficiency improvements incentive fund

If the Secretary determines that a State has demonstrated a commitment to improving the energy efficiency of buildings within such State, the Secretary may, beginning in fiscal year 1994, provide up to \$1,000,000 to such State for deposit into a revolving fund established by such State for the purpose of financing energy efficiency improvements in State and local government buildings. In making such determination the Secretary shall consider whether -

(1) such State, or a majority of the units of local government with jurisdiction over building energy codes within such State, has adopted codes for energy efficiency in new buildings that are at least as stringent as American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1-1989 (with respect to commercial buildings) and Council of American Building Officials Model Energy Code, 1992 (with respect to residential buildings);

(2) such State has established a program, including a revolving fund, to finance energy efficiency improvement projects in State and local government facilities and buildings; and

(3) such State has obtained funding from non-Federal sources, including but not limited to, oil overcharge funds, State or local government appropriations, or utility contributions (including rebates) equal to or greater than three times the amount provided by the Secretary under this subsection for deposit into such revolving fund.

### **Section 6323a. Matching State contributions**

For the base State Energy Conservation Program (part D of the Energy Policy and Conservation Act, sections 361 through 366 [42 U.S.C. 6321-6326]), each State will hereafter match in cash or in kind not less than 20 percent of the Federal contribution.

**Section 6324. State energy efficiency goals**

Each State energy conservation plan with respect to which assistance is made available under this part on or after October 1, 1991, shall contain a goal, consisting of an improvement of 10 percent or more in the efficiency of use of energy in the State concerned in the calendar year 2000 as compared to the calendar year 1990, and may contain interim goals.

**Section 6325. General provisions****(a) Rules**

The Secretary may prescribe such rules as may be necessary or appropriate to carry out his authority under this part.

**(b) Departmental consultation**

In carrying out the provisions of sections 6322 and 6324 of this title and subsection (a) of section 6323 of this title, the Secretary shall consult with appropriate departments and Federal agencies.

**(c) Annual report**

The Secretary shall, as part of the report required under section 7267 of this title, report to the President and the Congress, and shall furnish copies of such report to the Governor of each State, on the operation of the program under this part. Such report shall include an estimate of the energy conservation achieved, the degree of State participation and achievement, a description of innovative conservation programs undertaken by individual States, and the recommendations of the Secretary, if any, for additional legislation.

**(d) Duty of Federal Trade Commission to prevent unfair or deceptive practices or acts relating to implementation of energy measures**

The Federal Trade Commission shall (1) cooperate with and assist State agencies which have primary responsibilities for the protection of consumers in activities aimed at preventing unfair and deceptive acts or practices affecting commerce which relate to the implementation of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable-resource energy measures, and (2) undertake its own program, pursuant to the Federal Trade Commission Act [15 U.S.C. 41 et seq.], to prevent unfair or deceptive acts or practices affecting commerce which relate to the implementation of any such measures.

**(e) List of energy measures eligible for financial assistance; designation of types and requirements of energy audits**

Within 90 days after August 14, 1976, the Secretary shall -

(1) develop, by rule after consultation with the Secretary of Housing and Urban Development, and publish a list of energy conservation measures and renewable-resource energy measures which are eligible (on a national or regional basis) for

financial assistance pursuant to section 1701z-8 of title 12 or section 6881 of this title;

(2) designate, by rule, the types of, and requirements for, energy audits.

(f) Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1999 through 2003 such sums as may be necessary.

(g) State Energy Advisory Board

(1)(A) There is hereby established within the Department of Energy a State Energy Advisory Board (hereafter in this subsection referred to as the "Board") which shall consist of at least 18 and not more than 21 members appointed by the Secretary as soon as practicable but no later than September 30, 1991. At least eight of the members of the Board shall be persons who serve as directors of the State agency, or a division of such agency, responsible for developing State energy conservation plans pursuant to section 6322 of this title. At least four members shall be directors of State or local low income weatherization assistance programs. Other members shall be appointed from persons who have experience in energy efficiency or renewable energy programs from the private sector, consumer interest groups, utilities, public utility commissions, educational institutions, financial institutions, local government energy programs, or research institutions. A majority of the members of the Board shall be State employees.

(B)(i) Except as provided in clause (ii), the members of the Board shall serve a term of three years.

(ii) Of the members first appointed to the Board, one-third shall serve a term of one year, one-third shall serve a term of two years, and the remainder shall serve a term of three years, as specified by the Secretary.

(2) The Board shall -

(A) make recommendations to the Assistant Secretary for Conservation and Renewable Energy within the Department of Energy with respect to -

(i) the energy efficiency goals and objectives of the programs carried out under this part, part E of this subchapter, and under part A of title IV of the Energy Conservation and Production Act [42 U.S.C. 6861 et seq.]; and

(ii) programmatic and administrative policies designed to strengthen and improve the programs referred to in clause (i), including actions that should be considered to encourage non-Federal resources (including private resources) to supplement Federal financial assistance;

(B) serve as a liaison between the States and such Department on energy efficiency and renewable energy resource programs; and

(C) encourage transfer of the results of research and

development activities carried out by the Federal Government with respect to energy efficiency and renewable energy resource technologies.

(3) The Secretary shall designate one of the members of the Board to serve as its chairman and one to serve as its vice-chairman. The chairman and vice-chairman shall serve in those offices no longer than two years.

(4) The Secretary shall provide the Board with such reasonable services and facilities as may be necessary for the performance of its functions.

(5) The Board shall be nonpartisan.

(6) The Board may adopt administrative rules and procedures and may elect one of its members secretary of the Board.

(7) Consistent with Federal regulations, the Secretary shall reimburse members of the Board for expenses (including travel expenses) necessarily incurred by them in the performance of their duties.

(8) The Board shall meet at least twice a year and shall submit an annual report to the Secretary and the Congress on the activities carried out by the Board in the previous fiscal year, including an accounting of the expenses reimbursed under paragraph (7) with respect to the year for which the report is made and any recommendations it may have for administrative or legislative changes concerning the matters referred to in subparagraphs (A), (B), and (C) of paragraph (2).

(9) The Board shall continue until terminated by law.

### **Section 6326. Definitions**

As used in this part -

(1) The term "appliance" means any article, such as a room air-conditioner, refrigerator-freezer, or dishwasher, which the Secretary classifies as an appliance for purposes of this part.

(2) The term "building" means any structure which includes provision for a heating or cooling system, or both, or for a hot water system.

(3) The term "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 conservation measures or renewable-resource energy measures and which -

(A) is carried out in accordance with rules of the Secretary; and

(B) imposes -

(i) no direct costs, with respect to individuals who are occupants of dwelling units in any State having a supplemental State energy conservation plan approved under section 6327 )1(! of this title, and

(ii) only reasonable costs, as determined by the Secretary, with respect to any person not described in clause (i).

Rules referred to in subparagraph (A) may include minimum qualifications for, and provisions with respect to conflicts of interest of, persons carrying out such energy audits.

(4) The term "energy conservation measure" means a measure which modifies any building, building system, energy consuming device associated with the building, or industrial plant, the construction of which has been completed prior to May 1, 1989, if such measure has been determined by means of an energy audit or by the Secretary, by rule under section 6325(e)(1) of this title, to be likely to maintain or improve the efficiency of energy use and to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Secretary) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of -

(A) the useful life of the modification involved, as determined by the Secretary, or

(B) 15 years after the purchase and installation of such measure,

whichever is less. Such term does not include (i) the purchase or installation of any appliance, (ii) any conversion from one fuel or source of energy to another which is of a type which the Secretary, by rule, determines is ineligible on the basis that such type of conversion is inconsistent with national policy with respect to energy conservation or reduction of imports of fuels, or (iii) any measure, or type of measure, which the Secretary determines does not have as its primary purpose an improvement in efficiency of energy use.

(5) The term "industrial plant" 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.

(6) The term "renewable-resource energy measure" means a measure which modifies any building or industrial plant, the construction of which has been completed prior to August 14, 1976, if such measure has been determined by means of an energy audit or by the Secretary, by rule under section 6325(e)(1) of this title, to -

(A) involve changing, in whole or in part, the fuel or source of the energy used to meet the requirements of such building or plant from a depletable source of energy to a nondepletable source of energy; and

(B) be likely to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as

determined by the Secretary) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of -

- (i) the useful life of the modification involved, as determined by the Secretary, or
- (ii) 25 years after the purchase and installation of such measure, whichever is less.

Such term does not include the purchase or installation of any appliance.

(7) The term "public building" means any building which is open to the public during normal business hours.

(8) The term "transportation controls" means any plan, procedure, method, or arrangement, or any system of incentives, disincentives, restrictions, and requirements, which is designed to reduce the amount of energy consumed in transportation, except that the term does not include rationing of gasoline or diesel fuel.

### III. Energy Independence and Security Act of 2007:

H. R. 6

One Hundred Tenth Congress of the United States of America

**AT THE FIRST SESSION**

*Begun and held at the City of Washington on Thursday, the fourth day of January, two thousand and seven*

An Act

To move the United States toward greater energy independence and security, to increase the production of clean renewable fuels, to protect consumers, to increase the efficiency of products, buildings, and vehicles, to promote research on and deploy greenhouse gas capture and storage options, and to improve the energy performance of the Federal Government, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Energy Independence and Security Act of 2007”.

**Subtitle E—Energy Efficiency and Conservation Block Grants**

**SEC. 541. DEFINITIONS.**

In this subtitle:

(1) ELIGIBLE ENTITY.—The term “eligible entity” means—

(A) a State;

(B) an eligible unit of local government; and

(C) an Indian tribe.

(2) ELIGIBLE UNIT OF LOCAL GOVERNMENT.—The term “eligible unit of local government” means—

(A) an eligible unit of local government-alternative 1;

and

(B) an eligible unit of local government-alternative 2.

(3)(A) ELIGIBLE UNIT OF LOCAL GOVERNMENT-ALTERNATIVE

1.—The term “eligible unit of local government-alternative 1”

means—

(i) a city with a population—

(I) of at least 35,000; or

(II) that causes the city to be 1 of the 10 highest populated cities of the State in which the city is located;

and

(ii) a county with a population—

(I) of at least 200,000; or

(II) that causes the county to be 1 of the 10 highest populated counties of the State in which the county

is located.

(B) ELIGIBLE UNIT OF LOCAL GOVERNMENT-ALTERNATIVE 2.—

The term “eligible unit of local government-alternative 2”

means—

(i) a city with a population of at least 50,000; or

(ii) a county with a population of at least 200,000.

(4) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) PROGRAM.—The term “program” means the Energy Efficiency and Conservation Block Grant Program established under section 542(a).

(6) STATE.—The term “State” means—

(A) a State;

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(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

**SEC. 542. ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM.**

(a) ESTABLISHMENT.—The Secretary shall establish a program, to be known as the “Energy Efficiency and Conservation Block Grant Program”, under which the Secretary shall provide grants to eligible entities in accordance with this subtitle.

(b) PURPOSE.—The purpose of the program shall be to assist eligible entities in implementing strategies—

(1) to reduce fossil fuel emissions created as a result of activities within the jurisdictions of eligible entities in a manner that—

(A) is environmentally sustainable; and

(B) to the maximum extent practicable, maximizes benefits for local and regional communities;

(2) to reduce the total energy use of the eligible entities; and

(3) to improve energy efficiency in—

(A) the transportation sector;

(B) the building sector; and

(C) other appropriate sectors.

**SEC. 543. ALLOCATION OF FUNDS.**

(a) IN GENERAL.—Of amounts made available to provide grants under this subtitle for each fiscal year, the Secretary shall allocate—

(1) 68 percent to eligible units of local government in accordance with subsection (b);

(2) 28 percent to States in accordance with subsection (c);

(3) 2 percent to Indian tribes in accordance with subsection (d); and

(4) 2 percent for competitive grants under section 546.

(b) ELIGIBLE UNITS OF LOCAL GOVERNMENT.—Of amounts available for distribution to eligible units of local government under subsection (a)(1), the Secretary shall provide grants to eligible units of local government under this section based on a formula established by the Secretary according to—

(1) the populations served by the eligible units of local government, according to the latest available decennial census; and

(2) the daytime populations of the eligible units of local government and other similar factors (such as square footage of commercial, office, and industrial space), as determined by the Secretary.

(c) STATES.—Of amounts available for distribution to States under subsection (a)(2), the Secretary shall provide—

(1) not less than 1.25 percent to each State; and

(2) the remainder among the States, based on a formula to be established by the Secretary that takes into account—

(A) the population of each State; and

(B) any other criteria that the Secretary determines to be appropriate.

(d) INDIAN TRIBES.—Of amounts available for distribution to Indian tribes under subsection (a)(3), the Secretary shall establish H. R. 6—178

a formula for allocation of the amounts to Indian tribes, taking into account any factors that the Secretary determines to be appropriate.

(e) PUBLICATION OF ALLOCATION FORMULAS.—Not later than 90 days before the beginning of each fiscal year for which grants are provided under this subtitle, the Secretary shall publish in the Federal Register the formulas for allocation established under this section.

(f) STATE AND LOCAL ADVISORY COMMITTEE.—The Secretary shall establish a State and local advisory committee to advise the Secretary regarding administration, implementation, and evaluation of the program.

#### **SEC. 544. USE OF FUNDS.**

An eligible entity may use a grant received under this subtitle to carry out activities to achieve the purposes of the program, including—

(1) development and implementation of an energy efficiency and conservation strategy under section 545(b);

(2) retaining technical consultant services to assist the eligible entity in the development of such a strategy, including—

(A) formulation of energy efficiency, energy conservation, and energy usage goals;

(B) identification of strategies to achieve those goals—

(i) through efforts to increase energy efficiency and reduce energy consumption; and

(ii) by encouraging behavioral changes among the population served by the eligible entity;

(C) development of methods to measure progress in achieving the goals;

(D) development and publication of annual reports to

the population served by the eligible entity describing—

- (i) the strategies and goals; and
- (ii) the progress made in achieving the strategies and goals during the preceding calendar year; and

(E) other services to assist in the implementation of the energy efficiency and conservation strategy;

- (3) conducting residential and commercial building energy audits;
- (4) establishment of financial incentive programs for energy efficiency improvements;
- (5) the provision of grants to nonprofit organizations and governmental agencies for the purpose of performing energy efficiency retrofits;
- (6) development and implementation of energy efficiency and conservation programs for buildings and facilities within the jurisdiction of the eligible entity, including—
  - (A) design and operation of the programs;
  - (B) identifying the most effective methods for achieving maximum participation and efficiency rates;
  - (C) public education;
  - (D) measurement and verification protocols; and
  - (E) identification of energy efficient technologies;
- (7) development and implementation of programs to conserve energy used in transportation, including—
  - (A) use of flex time by employers;

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- (B) satellite work centers;
- (C) development and promotion of zoning guidelines or requirements that promote energy efficient development;
- (D) development of infrastructure, such as bike lanes and pathways and pedestrian walkways;
- (E) synchronization of traffic signals; and
- (F) other measures that increase energy efficiency and decrease energy consumption;

- (8) development and implementation of building codes and inspection services to promote building energy efficiency;
- (9) application and implementation of energy distribution technologies that significantly increase energy efficiency, including—
  - (A) distributed resources; and
  - (B) district heating and cooling systems;
- (10) activities to increase participation and efficiency rates for material conservation programs, including source reduction, recycling, and recycled content procurement programs that lead to increases in energy efficiency;
- (11) the purchase and implementation of technologies to reduce, capture, and, to the maximum extent practicable, use methane and other greenhouse gases generated by landfills

or similar sources;

(12) replacement of traffic signals and street lighting with energy efficient lighting technologies, including—

(A) light emitting diodes; and

(B) any other technology of equal or greater energy efficiency;

(13) development, implementation, and installation on or in any government building of the eligible entity of onsite renewable energy technology that generates electricity from renewable resources, including—

(A) solar energy;

(B) wind energy;

(C) fuel cells; and

(D) biomass; and

(14) any other appropriate activity, as determined by the Secretary, in consultation with—

(A) the Administrator of the Environmental Protection Agency;

(B) the Secretary of Transportation; and

(C) the Secretary of Housing and Urban Development.

**SEC. 545. REQUIREMENTS FOR ELIGIBLE ENTITIES.**

(a) CONSTRUCTION REQUIREMENT.—

(1) IN GENERAL.—To be eligible to receive a grant under the program, each eligible applicant shall submit to the Secretary a written assurance that all laborers and mechanics employed by any contractor or subcontractor of the eligible entity during any construction, alteration, or repair activity funded, in whole or in part, by the grant shall be paid wages at rates not less than the prevailing wages for similar construction activities in the locality, as determined by the Secretary of Labor, in accordance with sections 3141 through 3144, 3146, and 3147 of title 40, United States Code.

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(2) SECRETARY OF LABOR.—With respect to the labor standards referred to in paragraph (1), the Secretary of Labor shall have the authority and functions described in—

(A) Reorganization Plan Numbered 14 of 1950 (5 U.S.C. 903 note); and

(B) section 3145 of title 40, United States Code.

(b) ELIGIBLE UNITS OF LOCAL GOVERNMENT AND INDIAN TRIBES.—

(1) PROPOSED STRATEGY.—

(A) IN GENERAL.—Not later than 1 year after the date on which an eligible unit of local government or Indian tribe receives a grant under this subtitle, the eligible unit of local government or Indian tribe shall submit to the Secretary a proposed energy efficiency and conservation strategy in accordance with this paragraph.

(B) INCLUSIONS.—The proposed strategy under subparagraph (A) shall include—

- (i) a description of the goals of the eligible unit of local government or Indian tribe, in accordance with the purposes of this subtitle, for increased energy efficiency and conservation in the jurisdiction of the eligible unit of local government or Indian tribe; and
- (ii) a plan for the use of the grant to assist the eligible unit of local government or Indian tribe in achieving those goals, in accordance with section 544.

(C) REQUIREMENTS FOR ELIGIBLE UNITS OF LOCAL GOVERNMENT.—In developing the strategy under subparagraph (A), an eligible unit of local government shall—

- (i) take into account any plans for the use of funds by adjacent eligible units of local governments that receive grants under the program; and
- (ii) coordinate and share information with the State in which the eligible unit of local government is located regarding activities carried out using the grant to maximize the energy efficiency and conservation benefits under this subtitle.

(2) APPROVAL BY SECRETARY.—

(A) IN GENERAL.—The Secretary shall approve or disapprove a proposed strategy under paragraph (1) by not later than 120 days after the date of submission of the proposed strategy.

(B) DISAPPROVAL.—If the Secretary disapproves a proposed strategy under subparagraph (A)—

- (i) the Secretary shall provide to the eligible unit of local government or Indian tribe the reasons for the disapproval; and
- (ii) the eligible unit of local government or Indian tribe may revise and resubmit the proposed strategy as many times as necessary until the Secretary approves a proposed strategy.

(C) REQUIREMENT.—The Secretary shall not provide to an eligible unit of local government or Indian tribe any grant under the program until a proposed strategy of the eligible unit of local government or Indian tribe is approved by the Secretary under this paragraph.

(3) LIMITATIONS ON USE OF FUNDS.—Of amounts provided to an eligible unit of local government or Indian tribe under H. R. 6—181

the program, an eligible unit of local government or Indian tribe may use—

- (A) for administrative expenses, excluding the cost of meeting the reporting requirements of this subtitle, an amount equal to the greater of—

(i) 10 percent; and

(ii) \$75,000;

(B) for the establishment of revolving loan funds, an amount equal to the greater of—

(i) 20 percent; and

(ii) \$250,000; and

(C) for the provision of subgrants to nongovernmental organizations for the purpose of assisting in the implementation of the energy efficiency and conservation strategy of the eligible unit of local government or Indian tribe, an amount equal to the greater of—

(i) 20 percent; and

(ii) \$250,000.

(4) ANNUAL REPORT.—Not later than 2 years after the date on which funds are initially provided to an eligible unit of local government or Indian tribe under the program, and annually thereafter, the eligible unit of local government or Indian tribe shall submit to the Secretary a report describing—

(A) the status of development and implementation of the energy efficiency and conservation strategy of the eligible unit of local government or Indian tribe; and

(B) as practicable, an assessment of energy efficiency gains within the jurisdiction of the eligible unit of local government or Indian tribe.

(c) STATES.—

(1) DISTRIBUTION OF FUNDS.—

(A) IN GENERAL.—A State that receives a grant under the program shall use not less than 60 percent of the amount received to provide subgrants to units of local government in the State that are not eligible units of local government.

(B) DEADLINE.—The State shall provide the subgrants required under subparagraph (A) by not later than 180 days after the date on which the Secretary approves a proposed energy efficiency and conservation strategy of the State under paragraph (3).

(2) REVISION OF CONSERVATION PLAN; PROPOSED STRATEGY.—Not later than 120 days after the date of enactment of this Act, each State shall—

(A) modify the State energy conservation plan of the State under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) to establish additional goals for increased energy efficiency and conservation in the State; and

(B) submit to the Secretary a proposed energy efficiency and conservation strategy that—

(i) establishes a process for providing subgrants as required under paragraph (1); and

(ii) includes a plan of the State for the use of funds received under the program to assist the State in achieving the goals established under subparagraph (A), in accordance with sections 542(b) and 544.

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(3) APPROVAL BY SECRETARY.—

(A) IN GENERAL.—The Secretary shall approve or disapprove a proposed strategy under paragraph (2)(B) by not later than 120 days after the date of submission of the proposed strategy.

(B) DISAPPROVAL.—If the Secretary disapproves a proposed strategy under subparagraph (A)—

(i) the Secretary shall provide to the State the reasons for the disapproval; and

(ii) the State may revise and resubmit the proposed strategy as many times as necessary until the Secretary approves a proposed strategy.

(C) REQUIREMENT.—The Secretary shall not provide to a State any grant under the program until a proposed strategy of the State is approved by the Secretary under this paragraph.

(4) LIMITATIONS ON USE OF FUNDS.—A State may use not more than 10 percent of amounts provided under the program for administrative expenses.

(5) ANNUAL REPORTS.—Each State that receives a grant under the program shall submit to the Secretary an annual report that describes—

(A) the status of development and implementation of the energy efficiency and conservation strategy of the State during the preceding calendar year;

(B) the status of the subgrant program of the State under paragraph (1);

(C) the energy efficiency gains achieved through the energy efficiency and conservation strategy of the State during the preceding calendar year; and

(D) specific energy efficiency and conservation goals of the State for subsequent calendar years.

#### **SEC. 546. COMPETITIVE GRANTS.**

(a) IN GENERAL.—Of the total amount made available for each fiscal year to carry out this subtitle, the Secretary shall use not less than 2 percent to provide grants under this section, on a competitive basis, to—

(1) units of local government (including Indian tribes) that are not eligible entities; and

(2) consortia of units of local government described in paragraph (1).

(b) APPLICATIONS.—To be eligible to receive a grant under this section, a unit of local government or consortia shall submit to

the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a plan of the unit of local government to carry out an activity described in section 544.

(c) **PRIORITY.**—In providing grants under this section, the Secretary shall give priority to units of local government—

(1) located in States with populations of less than 2,000,000;

or

(2) that plan to carry out projects that would result in significant energy efficiency improvements or reductions in fossil fuel use.

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**SEC. 547. REVIEW AND EVALUATION.**

(a) **IN GENERAL.**—The Secretary may review and evaluate the performance of any eligible entity that receives a grant under the program, including by conducting an audit, as the Secretary determines to be appropriate.

(b) **WITHHOLDING OF FUNDS.**—The Secretary may withhold from an eligible entity any portion of a grant to be provided to the eligible entity under the program if the Secretary determines that the eligible entity has failed to achieve compliance with—

(1) any applicable guideline or regulation of the Secretary relating to the program, including the misuse or misappropriation of funds provided under the program; or

(2) the energy efficiency and conservation strategy of the eligible entity.

**SEC. 548. FUNDING.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **GRANTS.**—There is authorized to be appropriated to the Secretary for the provision of grants under the program \$2,000,000,000 for each of fiscal years 2008 through 2012; provided that 49 percent of the appropriated funds shall be distributed using the definition of eligible unit of local government-alternative 1 in section 541(3)(A) and 49 percent of the appropriated funds shall be distributed using the definition of eligible unit of local government-alternative 2 in section 541(3)(B).

(2) **ADMINISTRATIVE COSTS.**—There are authorized to be appropriated to the Secretary for administrative expenses of the program—

(A) \$20,000,000 for each of fiscal years 2008 and 2009;

(B) \$25,000,000 for each of fiscal years 2010 and 2011;

and

(C) \$30,000,000 for fiscal year 2012.

(b) **MAINTENANCE OF FUNDING.**—The funding provided under this section shall supplement (and not supplant) other Federal funding provided under—

(1) a State energy conservation plan established under

part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.); or

(2) the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.).

## IV. DOE Guidance, FOA # DE-FOA-0000052

### SEP Recovery Act Program Guidance

Energy Program Notice 09-01, 2009 State Energy Program Formula Grant  
Guidance for American Recovery and Reinvestment Act (ARRA)  
Funding and Regular Program Appropriations



**Department of Energy**  
Washington, DC 20585

**STATE ENERGY PROGRAM NOTICE 09-01**  
**EFFECTIVE DATE:** \_\_\_\_\_

**SUBJECT: 2009 STATE ENERGY PROGRAM FORMULA GRANT GUIDANCE FOR  
AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) FUNDING AND  
REGULAR PROGRAM APPROPRIATION**

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## **1.0 PURPOSE**

To establish grant guidance and management information for the State Energy Program (SEP) formula grants for Program Year (PY) 2009 for funds provided under the American Recovery and Reinvestment Act, Pub. L. 111-5, (ARRA) and through the regular appropriations process. At this time, this guidance provides as Attachment A the State formula allocations for the SEP ARRA funds. Formula allocations for the FY 2009 regular appropriation will be provided when available at a later date.

## **2.0 SCOPE**

The provisions of this guidance apply to States, Territories and the District of Columbia (hereinafter "States") applying for formula grant financial assistance under the Department of Energy's (DOE's) State Energy Program. Much of the information in this guidance is summarized from the volumes of the Code of Federal Regulations (CFR) applicable to SEP, namely 10 CFR part 420 and 10 CFR part 600 (the DOE Financial Assistance Rules). These regulations are the official sources for program requirements. The CFR can be accessed at: <http://www.gpoaccess.gov/cfr/index.html>. Impacts of ARRA on SEP regulations are noted throughout this Guidance.

## **3.0 FUNDING OPPORTUNITY ANNOUNCEMENT (FOA) COVERAGE**

Application information for the SEP Recovery Act funds will be included in FOA No. DE-FOA-0000052.

Application Information for the SEP funds provided under the regular program appropriation will be included in FOA No. DE-FOA-0000039.

## **4.0 PROGRAM PRIORITIES**

### **4.1. AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) OVERVIEW**

The purposes of the American Recovery and Reinvestment Act of 2009 are: "To preserve and create jobs and promote economic recovery; to assist those most impacted by the recession; to provide investments needed to increase economic efficiency by spurring technological advances in science and health; to invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and, to stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases." Title III, Energy Policy and Conservation Act, as amended, authorizes the DOE to administer the SEP. DOE is responsible for overseeing and managing the allocation and use of \$3.1 billion in ARRA funds distributed to the states, territories and the District of Columbia (hereinafter "states") through the SEP for the purpose of:

- Stimulating the creation or increased retention of jobs;
  - Saving energy (kwh/therms/gallons/BTUs/etc.);
  - Increasing energy generation from renewable sources; and
  - Reducing greenhouse gas (GHG) emission
- Under these primary objectives, states should plan for and maximize efforts toward achieving the specific goal of reducing per capita energy consumption by at least 25 percent of the State's 1990 per capita energy use by 2012. This

corresponds closely to the EPACK 2005 requirement described in Section 9.1B below. This is a minimum goal; higher or more stringent goals are encouraged.

- States will submit a SEP plan for the expenditures of the ARRA funds within 60 days of the release of the FOA. In choosing the specific programs or projects that make up this plan, states should choose those which will make the maximum contribution to achieving this overall goal. (A separate SEP plan for the PY 09 SEP appropriation will be required according to the regular application schedule.)
- States are encouraged to use their ARRA funding not only to support current energy efficiency and renewable energy projects but also to seed sustainable programs and put in place long-term funding mechanisms such as revolving loans and energy savings performance contracting that will provide lasting benefits and lead to long-term market transformation.
- States are required to commit to using SEP ARRA funding to expand existing programs, including ratepayer-funded programs, or to create new programs consistent with SEP regulations (10 CFR 420), and not to supplant or replace existing state, ratepayer or other funding. See section 9.2B for compliance requirements
- States will be required to report regularly on the activities carried out with ARRA funding. States will be required to report quarterly on progress, in terms of specific activities and amounts of funding obligated and expended. States should also expect to participate in the evaluation of these programs as part of the overall SEP national evaluation.
- The 50 percent limitation described in Section 9.7 of this guidance on the purchase and installation of equipment and materials for energy efficiency and renewable energy measures does not apply to ARRA SEP funds.
- There is no match requirement for ARRA SEP funds.

Further detail regarding metrics, reporting, timelines and procedures that govern the use of SEP ARRA funds are included below in Section 10.

#### 4.2 SEP GOALS AND OBJECTIVES

- **Alignment with national goals:** DOE continues to encourage states to develop strategies that align their goals and objectives to national goals. By aligning with national goals – increasing jobs, reducing US oil dependency through increases in energy efficiency and deployment of renewable energy technologies, promoting economic vitality through an increase in “green jobs,” and reducing green house gas emissions – States and DOE demonstrate SEP leadership in successfully addressing national needs at the State and local level. These national goals are included in the Energy Policy Act of 2005, the Energy Independence and Security Act and the American Recovery and Reinvestment Act of 2009.
- **Market Transformation:** DOE requests that states continue to focus their program efforts on market transformation initiatives and actions that align with national goals. Market transformation is defined as:

“Strategic interventions that cause lasting changes in the structure or function of a market or the behavior of market participants, resulting in an increase in adoption of energy efficiency and renewable energy products, services, and practices.”

- **SEP Strategic Plan:** The SEP Strategic Plan establishes the following four goals for SEP:
  - Increase energy efficiency to reduce energy costs and consumption for consumers, businesses and government.
  - Reduce reliance on imported energy.
  - Improve the reliability of electricity and fuel supply and the delivery of energy services.
  - Reduce the impacts of energy production and use on the environment.

The SEP Strategic Plan is available at:

[http://apps1.eere.energy.gov/state\\_energy\\_program/pdfs/strategic\\_plan\\_0207.pdf](http://apps1.eere.energy.gov/state_energy_program/pdfs/strategic_plan_0207.pdf).

- **DOE Objectives:** DOE has established the following objectives that complement program goals articulated in the SEP Strategic Plan:
  - Transform energy markets in partnership with states to accelerate near-term deployment of energy efficiency and renewable technologies.
  - Promote an integrated portfolio of energy efficiency and renewable energy solutions to meet U.S. energy security, economic vitality, and environmental quality objectives.
  - Strengthen core state energy programs to develop and adopt leading market transformation initiatives.

This strategic direction builds on SEP successes and promotes a stronger SEP national effort. DOE will continue to enhance the effectiveness of state programs to promote and support market transformation, while maintaining support for formula grants. DOE’s plans are guided by the following principles:

- Target strategic market intervention that can cause permanent structural change.
- Identify opportunities for better integration of SEP and state energy initiatives to other EERE technology deployment and market transformation activities.
- Replicate state innovation and best practices.
- Promote collaboration across public and private agencies.
- Foster regional cooperation among state and Federal agencies.
- Improve the way we measure program performance and communicate success.

#### 4.3 SEP NATIONAL EVALUATION

The ARRA sets strict accountability and transparency requirements for DOE and the states. Evaluation is a strong component of these requirements and will assist in determining the role of SEP in future energy focused initiatives. States should

expect to participate in the national SEP evaluation to be implemented in FY 2009-2010. Detailed information will be provided in separate guidance.

## **5.0 AMERICAN RECOVERY ACT AND REINVESTMENT ACT**

### **5.1 Conditions to be Met to Receive ARRA Funding**

Section 410 of the Conference Report accompanying ARRA provides that a State will receive SEP funding under ARRA only if the governor notifies the Department in writing that the Governor has obtained necessary assurances as outlined in sections 1-3 below. SEP ARRA funds cannot be provided to a state until such notification in writing has been received.

(1) The applicable State regulatory authority will seek to implement, in appropriate proceedings for each electric and gas utility, under its rate-making authority a general policy that ensures that utility financial incentives are aligned with helping their customers use energy more efficiently and that provide timely cost recovery and a timely earnings opportunity for utilities associated with cost-effective measurable and verifiable efficiency savings, in a way that sustains or enhances utility customers' incentives to use energy more efficiently.

(2) The State, or the applicable units of local government that have authority to adopt building codes, will implement the following:

(A) A residential building energy code (or codes) that meets or exceeds the most recent International Energy Conservation Code, or achieves equivalent or greater energy savings.

(B) A commercial building energy code (or codes) throughout the State that meets or exceeds the ANSI/ASHRAE/IESNA Standard 90.1-2007, or achieves equivalent or greater energy savings.

(C) A plan to achieve 90 percent compliance with the above energy codes within eight years. This plan will include active training and enforcement programs and annual measurement of the rate of compliance.

(3) The State will to the extent practicable prioritize the grants toward funding energy efficiency and renewable energy programs, including—

(A) the expansion of existing energy efficiency programs approved by the State or the appropriate regulatory authority, including energy efficiency retrofits of buildings and industrial facilities, that are funded by the State or through rates under the oversight of the applicable regulatory authority, to the extent applicable;

(B) the expansion of existing programs, approved by the State or the appropriate regulatory authority, to support renewable energy projects and deployment activities, including programs operated by entities which have the authority and capability to manage and distribute grants, loans, performance incentives, and other forms of financial assistance; and

(C) cooperation and joint activities between States to advance more efficient and effective use of this funding to support the priorities described in this section.

## 5.2 Obligation and Expenditure Timeline for ARRA Grants

To expedite availability of ARRA funds States must submit an initial application package prior to the comprehensive application package which must be submitted within 60 days after the FOA is issued.

The ARRA gives preference to activities that can be started and completed expeditiously.

DOE will monitor closely the expenditure rate of Recovery Act funding by the states to ensure the targets and purposes set by the Administration and outlined by OMB are met. Funds will be provided to States according to the following schedule:

- 10% of total allocation at time of initial award of Recovery Act Funds
- 40% of total allocation upon DOE approval of the State Plan
- 20% of total allocation upon demonstration by Grantee that it has obligated under its procurement system at least 50% of the Recovery Act Funds awarded previously, is complying with all reporting requirements, and that jobs are being created.
- Remainder of total allocation upon demonstration by the Grantee that Grantee is making continued progress in obligating the funds previously provided, complying with all reporting requirements and creating jobs. If progress reviews reveal deficiencies, such as funds not obligated, jobs not created, insufficient project progress, or failure to meet reporting requirements, no further funds will be provided until deficiencies are corrected.

## 5.3 Priority Uses of Funds

SEP ARRA funds may be obligated and expended on programs, projects or initiatives as provided in the authorizing legislation. Historical evaluations, however, have demonstrated that the following programs and projects have the greatest potential to readily achieve the overall goals specified above, and we encourage States to consider them when developing their plan for SEP ARRA funds:

- Establishment and enforcement of energy efficient building codes and standards, and implementation of voluntary programs that impact new design.
- Loans, grants and incentives for energy efficiency and renewable energy measures.
- Building retrofits.
- Traffic signal synchronization and replacement with LEDs.
- Industrial retrofits.

No limits are placed on capital expenditures associated with these projects

## 5.4 Cost of Energy Saved or Generated

For purposes of selecting projects and programs to be implemented with these funds, DOE encourages States, in calculating cost effectiveness, to go beyond traditional utility metrics and cost tests which could constrain the amount of energy efficiency or renewable energy generation that could otherwise be achieved. The cost effectiveness of measures, projects and programs included in State Plans will be

evaluated by DOE when approving State Plans. DOE will provide additional information regarding calculations of cost effectiveness.

#### 5.5 Cost Sharing and Resource Leveraging

SEP's 20 percent cost sharing requirement is waived for ARRA funds. To increase the impact of these stimulus funds, DOE encourages plans which achieve a high degree of leveraging, and/or projects that extend the impact of the funds. Examples of programs which provide high leverage are revolving loan programs and performance contracting.

#### 5.6 SEP Performance Metrics

President Obama has committed to transparency and accountability in the use of the funds provided through ARRA. It is important therefore that the activities carried out and the results achieved with those funds are tracked carefully and reported clearly and quantifiably. The results achieved with SEP ARRA funding will be assessed according to the following performance metrics:

1. Jobs created
2. Energy (kwh/therms/gallons/BTUs/etc.) saved
3. Renewable energy installed capacity and generated
4. GHG emissions reduced (CO2 equivalents)
5. Energy cost savings
6. Funds leveraged (refer to Section 5.9)

#### 5.7 Energy Savings

To ensure the effective use of funds, DOE will evaluate State Plans based on the energy savings per dollar invested that are projected to result from the programs and measures proposed by the State in its Plan. DOE strongly encourages States to propose measures that will achieve no less than 10 million source BTUs saved per \$1,000 spent. DOE may provide additional guidance to states regarding the measurement and calculation of energy savings.

#### 5.7A Further Description of Energy Savings Goal:

Each state portfolio of projects funded by SEP ARRA grants should seek to achieve annual energy savings of at least 10 million source BTUs for each \$1,000 of total investment. This number is based on savings estimates documented in the 2005 evaluation of SEP's program year 2002 activities<sup>4</sup>. This goal applies to the entire portfolio of projects being funded. As such, there may be individual projects that do not meet this standard and others that exceed it.

Moreover, DOE expects that there will be approaches that were not evaluated in the SEP evaluation (or which have been substantially improved since the evaluation) that are designed to create in permanent, transformational changes in the way energy decisions and energy financing are made, that require a different time frame for analysis. For example, strategies such as revolving funds and on-bill financing may achieve more net energy reductions or renewable capacity than other strategies, but fail to meet the standard of 10 MBTUs (source) in any single year. For these kinds of strategies, DOE would accept a demonstration extending projected savings over a longer time frame.

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<sup>4</sup> Schweitzer, M. and B.E. Tonn, 2005. *An Evaluation of State Energy Program Accomplishments: 2002 Program Year*, ORNL/CON-492. Oak Ridge National Laboratory, Oak Ridge, TN, June.

DOE recognizes that it may be more difficult for States with a mature and effective energy efficiency and renewable energy program to meet this standard than it would be for a State that has not implemented aggressive energy efficiency measures over time. DOE believes that these States have an effective and experienced staff, a well developed administrative and regulatory infrastructure, and an effective field presence, that should allow the State to achieve the minimum levels of energy savings.

#### 5.8 ARRA Progress and Reporting Metrics

As in the past, States will be required to report quarterly on project expenditures, and also on specific activities and achievements, such as square feet of buildings retrofitted. These items tend to be outputs (actions taken by grant recipients) but also include some short-term outcomes (results achieved relatively soon after project outputs occur that lead toward attainment of ultimate project objectives). A list of metrics required for reporting is included in Section 10.

#### 5.9 Expenditures

Accurate records should be kept on project expenditures for all SEP ARRA funded efforts. The specific expenditure information to be gathered and tracked is listed below. It will be the same for all project types:

- Expenditures for project activities.
- Expenditures for administration.
- Amount of funding spent on project activities that was leveraged from other sources. Leveraged funds are defined as non-federal funds added to an SEP activity that would not otherwise have been spent for energy efficiency and/or renewable energy programs, and are not included in the grant budget.

### **6.0 LEGAL AUTHORITY:**

SEP is authorized under PL 94-385, PL 94-163, PL 95-619, PL 94-580, PL 101-440, PL 102-486, PL 109-58 , and PL-111-5. All grant awards made under this program must comply with applicable legislation.

SEP is governed by program regulations (10 CFR part 420) published in the Federal Register on July 8, 1996, and amended in the Federal Registers dated May 14, 1997, August 24, 1999, and May 1, 2000, and the DOE Financial Assistance Rules (10 CFR part 600). DOE published a Final Rule on October 2, 2006, which amends 10 CFR 420 to incorporate the provisions of the Energy Policy Act of 2005, as described above.

### **7.0 FUNDING**

#### 7.1 General Funding

PY 2009 funding for SEP, requiring DOE approval for expenditure, can come from three sources: (1) Federally appropriated funds; (2) Warner, EXXON, and similar petroleum violation escrow funds; and (3) Stripper Well and other oil overcharge funds (including Texaco) which are subject to Stripper settlement rules.

#### 7.2 Formula Allocations

Formula allocations for SEP ARRA consist of \$3,069,000,000 in Federal funds appropriated in PY 2009. State formula allocations are provided in the table attached to this guidance. Formula allocations for SEP funds provided through the regular federal appropriation process will be provided in FOA No. DE-FOA-0000039.

In keeping with the intent of this funding, Congressional and Department goals are for all Recovery funds to be obligated by September 30, 2010.

(See 10 CFR Part 420.11 for the allocation process.)

### 7.3 Match

States must contribute (in cash, in kind, or both) an amount no less than 20 percent of their total Federal formula award. **This requirement does not apply to SEP ARRA funds.**

(See 10 CFR Part 420.12 regarding match.)

#### 7.4 New and Modified Activities Funded Under SEP

Any new and modified SEP initiatives, including those funded through the use of Petroleum Violation Escrow (PVE) funds, must be approved in writing prior to implementation by the appropriate Contracting Officer via amendment to the current State Plan. Recipients must ensure that all proposed use of Stripper Well funds have prior review and approval by DOE Headquarters.

### **8.0 APPLICATIONS FOR SEP GRANTS**

The application package for SEP grants consists of the State Plan and all required forms. The State Plan is the critical element of the application package. It is divided into two sections - the Master File and the Annual File (see section 9.0 below).

Applications must be submitted in accordance with the 2009 SEP Funding Opportunity Announcement. Detailed information on the application package and application due dates can be found in Part IV of the Funding Opportunity Announcement, Application and Submission Information.

### **9.0 STATE PLAN**

The State Plan consists of a Master File, covering items that generally do not change from year to year, which would need to be updated only when a change occurs, and an Annual File, covering the activities the State intends to undertake during the year of the grant, which must be updated each year to reflect the current year's activities. *For the sake of simplicity and the expeditious award of SEP ARRA grants, the Master File portion of the State Plan need not include SEP ARRA funds.*

#### 9.1 Master File (This portion of the State Plan is not required for SEP ARRA funds)

9.1A Overview: The Master File should include, wherever practicable, information on the State's overall strategic energy plan and its key elements, its strategic goals and objectives, and how its SEP activities fit into that overall plan. It should explain how implementing the plan will conserve energy; how the State will measure progress toward attaining its goals; an explanation of how the plan satisfies the minimum criteria for the required (mandatory) activities; and a plan for State monitoring that describes how the State conducts the administrative and programmatic oversight for programs implemented by other agencies within the State, contractors employed by the State, or subrecipients of financial assistance from the State. If a State has completed certain mandatory activities, this may also be indicated in the Master File.

### 9.1B EPACT

The Energy Policy Act of 2005 (EPACT), PL 109-58, Title I, Subtitle B, Section 123, made two revisions to the legislation governing SEP.

- The first amends the provisions regarding State Plans by adding a subsection, as follows:

“(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e) [*the annual State Plan*]. Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.”

With the issuance of this program guidance, States are invited to review their SEP State Plans with a view toward regional/multi-state collaboration. DOE will continue to work with the National Association of State Energy Officials (NASEO), the National Governors Association, regional governors associations and regional initiatives designed to foster and support regional/multi-State cooperation and collaboration.

- The second EPACT revision amended the provisions regarding the energy efficiency goals established by the States, as follows:

“Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of enactment of the Energy Policy Act of 2005 shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2012 as compared to calendar year 1990, and may contain interim goals.”

Each state must describe within the Master File in their 2009 State Plan how it intends to achieve 25 percent (or more) along with any initial/preliminary progress toward achieving the improvement goal cited above.

DOE realizes that many States have developed State Energy Strategic Plans that include energy efficiency and renewable energy goals. Goals that are less than EPACT’s 25 percent requirement may be considered interim goals for meeting that requirement. States that are in the process of developing such plans may submit information addressing when the plans will be completed. States that have not received state government or legislative direction to develop such plans should provide information in the WinSAGA Master File on their strategies to involve state leadership in developing such plans to address this goal.

## 9.2 Annual File

### 9.2A Overview

The Annual File section of the State Plan describes each market area and program activity for which the state requests financial assistance for a given year, including

budget information and milestones for each activity, and the intended scope and goals to be attained either qualitatively or quantitatively. The SEP Narrative Information Worksheets capture this information. We encourage states to structure the activities within the market areas broadly and inclusively. This will streamline the reporting and approval process, afford the states additional flexibility and reduce the number of plan amendments required during the year.

#### 9.2B Compliance with Section 410 Requirements

Section 410 of the Conference Report accompanying ARRA requires in section (a)(3) that funds be used for the expansion of existing energy efficiency and renewable energy programs. To ensure that this requirement is met, each state's application should include the following as part of the Annual File, Recovery Ramp Up document (refer to FOA, Part IV, Section C):

- A commitment that SEP funding will be used to create new programs or expand existing programs, including ratepayer-funded programs, and not to supplant or replace existing state, ratepayer or other funding;
- A list of the existing efficiency and renewable energy programs which the State plans to expand, including programs funded by ratepayer-funded programs operated by both investor-owned and consumer-owned utilities;
- The 2008 funding level for each existing program, including ratepayer-funded programs;
- The 2009 and 2010 planned funding level for each existing energy efficiency and renewable energy program, to demonstrate that the State is planning to use additional SEP ARRA funding for the expansion of existing programs.

(See 10 CFR Part 420.13 for more specific requirements on State Plans.)

#### 9.3 State Plan Activity Codes

States should identify program activities under the market areas and topic categories developed in preparation for [Grants.gov](http://www.grants.gov). Use of the markets and topic categories assists DOE in tracking grant-funded activities and gathering information on SEP regionally and nationwide. DOE is often required to provide analyses, justifications and recommendations based on the information provided by the states. The use of these categories, which are included in the Narrative Information Worksheet, also assists in developing performance metrics for each activity. Definitions of the markets and topic areas can be found on the SEP website at:

[http://www.eere.energy.gov/state\\_energy\\_program/topic\\_definitions.cfm](http://www.eere.energy.gov/state_energy_program/topic_definitions.cfm)

#### 9.4 Mandatory Requirements

The following activities and details on compliance are required in each State Plan:

- establish mandatory lighting efficiency standards for public buildings;
- promote carpools, vanpools, and public transportation;
- incorporate energy efficiency criteria into procurement procedures;
- implement mandatory thermal efficiency standards for new and renovated buildings, or in states that have delegated such matters to political subdivisions, adopt model codes for local governments to mandate such measures;
- permit right turns at red traffic lights and left turns from a one-way street onto a one-way street at a red light after stopping; and
- ensure effective coordination among various local, state, and Federal energy efficiency, renewable energy and alternative transportation fuel programs within the state. This requirement is especially important in light of the substantial ARRA funding that will be provided to local governments under the

EECBG. State Plans should detail how SEP and EECBG funding will be coordinated.

(See 10 CFR Part 420.15 for more specific requirements on mandatory activities.)

#### 9.5 Optional Program Activities

States may wish to consider the following program areas for inclusion in their State Plans:

- Programs of public education to promote energy conservation.
- Programs to increase transportation energy efficiency, including programs to accelerate the use of alternative transportation fuels and hybrid vehicles for state government fleets, taxis, mass transit, and privately owned vehicles.
- Programs that encourage the introduction of energy saving technologies in the industry, buildings, transportation and utility sectors and encourage state and industry partnerships that develop and demonstrate advances in energy efficiency and clean technologies.
- Programs for financing energy efficiency and renewable energy capital investments, and programs, which may include loan programs and performance contracting programs for leveraging additional public and private sector funds, and programs that allow rebates, grants, or other incentives for the purchase and installation of eligible energy efficiency and renewable energy measures in public or nonprofit buildings owned and operated by a state, a political subdivision of a state or an agency or instrumentality of a state, or an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, including public and private non-profit schools and hospitals, and local government buildings.
- Programs for encouraging and for carrying out energy audits with respect to buildings and industrial facilities (including industrial processes) within the state.
- Programs to promote the adoption of integrated energy plans which provide for periodic evaluation of a state's energy needs, available energy resources (including greater energy efficiency) and energy costs; and utilization of adequate and reliable energy supplies, including greater energy efficiency, that meet applicable safety, environmental, and policy requirements at the lowest cost.
- Programs to promote energy efficiency in residential housing, such as programs for development and promotion of energy efficiency rating systems for newly constructed housing and existing housing so that consumers can compare the energy efficiency of different housing; and programs for the adoption of incentives for builders, utilities, and mortgage lenders to build, service, or finance energy efficient housing.
- Programs to identify unfair or deceptive acts or practices which relate to the implementation of energy efficient and renewable resource energy measures and to educate consumers concerning such acts or practices.
- Programs to modify patterns of energy consumption so as to reduce peak demands for energy and improve the efficiency of energy supply systems, including electricity supply systems.
- Programs to promote energy efficiency as an integral part of economic development and environmental planning conducted by state, local, or other governmental entities or by energy utilities.

- Programs to provide training and education to building designers and contractors to promote building energy efficiency.
- Programs for the development of building retrofit standards and regulations.
- Programs to provide support for feasibility studies for the utilization of renewable energy and energy efficiency resource technologies.
- Programs to encourage the use of renewable energy technologies.
- Programs that partner with other state agencies to leverage additional funds, such as public benefits funds and state and local investments in Clear Air Act compliance.
- Collaborative programs for energy efficiency and renewable energy technologies that link a state's energy and environmental objectives. In order to meet the state air quality priorities, these programs could leverage air quality funding to invest in air quality measures such as energy efficiency and renewable energy technologies.

(See 10 CFR Part 420.17 for more specific requirements on optional activities.)

#### 9.6 State Energy Emergency Plans

In conjunction with the SEP State Plan, States are required to file, for information only, an energy emergency plan detailing implementation strategies for dealing with energy emergencies. DOE encourages states to make sure their plans are up to date, given today's environment, and especially in view of recent natural disasters. For states that desire to update their plan, model guidelines have been developed for incorporating energy efficiency and renewable energy technologies into a state's energy emergency plan. These guidelines can be viewed at: <http://www.oe.netl.doe.gov/docs/prepare/EAGuidelines.pdf>

## 9.7 Expenditure Prohibitions and Limitations

**NOTE: The 50% limitation on use of funds for purchase and installation of equipment and materials for energy efficiency and renewable energy measures does not apply to ARRA funds.**

### 9.7A Prohibitions: States are prohibited from using SEP financial assistance:

- for construction, such as construction of mass transit systems and exclusive bus lanes, or for the construction or repair of buildings or structures;
- to purchase land, a building or structure or any interest therein;
- to subsidize fares for public transportation;
- to subsidize utility rate demonstrations or State tax credits for energy conservation or renewable energy measures; or
- to conduct or purchase equipment to conduct research, development or demonstration of energy efficiency or renewable energy techniques and technologies not commercially available.

### 9.7B Limitations:

- No more than 20 percent of the financial assistance awarded to the State for this program shall be used to purchase office supplies, library materials, or other equipment whose purchase is not otherwise prohibited.
- Demonstrations of commercially-available energy efficiency or renewable energy techniques and technologies are permitted and are not subject to the construction prohibition or the 20 percent on equipment and direct purchase limitations.
- A State may use regular or revolving loan mechanisms to fund SEP services that are consistent with the SEP rule and that are included in the approved State Plan. Loan repayments and interest on loan funds may be used only for activities which are consistent with the rule and are included in the State's approved plan.
- A State may use funds for the purchase and installation of equipment and materials for energy efficiency measures and renewable energy measures, subject to the following:
  - such use must be included in the State's approved plan (and if PVE funds are used, the use must be consistent with any judicial or administrative terms and conditions imposed upon State use of such funds).
  - such use is limited to no more than 50 percent of all funds allocated by the state to SEP in any given year, regardless of source, except that this limitation shall not include regular and revolving loan programs funded with PVE funds. States may request a waiver of the 50 percent limit from DOE for good cause. For regular and

- revolving loan funds, loan documents shall ensure repayment of principal and interest within a reasonable period of time, and shall not include provisions for loan forgiveness. **The 50% limitation does not apply to SEP ARRA funds.**
- Funds may be used to supplement and no funds may be used to supplant weatherization activities under the Weatherization Assistance Program for Low-Income Persons.

(See 10 CFR Part 420.18 for more detailed expenditure prohibitions and limitations.)

#### 9.8 Expenditures Within a Grant Period. **(This section does not apply to SEP ARRA funds.)**

States are encouraged to expend all obligated funds within the annual grant cycle. If a state has estimated unobligated funds to be carried forward from one year to the next within the grant period, they must amend the subsequent program year State Plan and budget to include activities associated with those unobligated funds. When a State's grant is closed out, any remaining unobligated funds are subject to reauthorization approval by the Office of Management and Budget.

#### 9.9 Program Income

DOE encourages states to earn income in connection with SEP activities to defray program costs. If the State Plan includes such activities, states should include an estimated amount of earned income in the budget portion of the Grant Application. Program income is defined in Federal regulations as gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the award. Program income includes but is not limited to:

- Income from fees for services performed.
- The use or rental of real or personal property acquired under Federally-funded projects.
- The sale of commodities or items fabricated under an award.
- License fees and royalties on patents and copyrights.
- Interest on loans made with award funds.

Except as otherwise provided in this subpart, program regulations, or the terms and conditions of the award, program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them. Interest earned through loan fund programs generated by grant-supported activities is treated as program income.

#### 9.10 Revolving Loan

When a state proposes to use funds for an established revolving loan fund, they are treated as obligated or encumbered. Once such a program is in place, returned principal and interest collected may be used to make additional loans or to fund the operations of the revolving loan program. During this time, returned principal is not accounted for as program income.

When DOE approves funds for a revolving loan, the state assumes responsibility for the stewardship and ultimate recapture of the principal and any interest at the end of the approved life of the program. These funds must eventually be closed out and a final accounting submitted to DOE. The report should include the amounts of interest collected and principal repayment. The state must apply the remaining principal and interest to restitution (in the case of PVE funds) or to other uses in the program for which they were originally authorized, including a decision on a reasonable

timeframe for expenditure. Re-authorization of funds used in the revolving program will be based on State proposals and program rules and regulations along with court orders in effect at that (later) time. The interest would be considered program income when the program ends, and the final accounting report would reflect the balance of funds remaining over and above the original principal after subtracting any operating expenses.

Program regulations govern all funds assigned to SEP activity use, whatever their source. Appropriated funds, PVE funds, an estimated amount for program income, and the state share must all be listed in the budget portion of the Grant Application. All funds must then be spent on the activities described in the Grant Application and addressed in the financial and performance reports required under the grant.

(See 10 CFR Part 600.225[b] and 10 CFR Part 600.101 for further information.)

#### **9.11 State Match Timeframe (This section does not apply to SEP ARRA funds)**

The 20 percent State match requirement must be met each year, not over the 5-year grant period.

## **10. METRICS AND REPORTING**

### **10.1 Background**

DOE, NASEO and the states, supported by the National Renewable Energy Laboratory, have worked together during the past 18 months to develop a new system for reporting outcomes of various SEP activities. DOE and NASEO surveyed the states regarding the feasibility of reporting various energy use and cost data, and formulated a list of metrics that should be used in reporting the results and/or outcomes of SEP activities. Use of these metrics will provide standard, clear, quantifiable information on the results of all SEP program activities, whether funded through ARRA or regular appropriations.

Some activities funded by SEP formula grants cannot be measured meaningfully by the metrics outlined here (e.g. emergency preparedness or quick-response analysis for legislators, state executives, stakeholders, etc.). These activities are an important part of SEP and should definitely continue to be funded. To be clear, *the new metrics discussed in this Guidance are not intended to restrict or change state activities funded by SEP.* Rather, they are intended to aid states so that, where possible, activity outcomes may be standardized so that they are more readily understood by Congress, by state executives and legislators, and by the public.

## 10.2 Information to be Reported Quarterly

The key activities and achievements to be reported by states will vary by program type. DOE will provide additional guidance on reporting requirements. Following is the information, by program type, that should be included in quarterly Program Status reports:

### 10.2A Activities

#### Building Codes and Standards

- Name of new code adopted
- Name of old code replaced
- Percentage of new construction in state covered by new code

#### Building Retrofits

- Number of buildings retrofitted, by sector
- Square footage of buildings retrofitted, by sector

#### Clean Energy Policy

- Number of state alternative energy plans developed
- Number of state renewable portfolio standards established
- Number of state interconnection standards established

#### Building Energy Audits

- Number of audits performed, by sector
- Floor space audited, by sector
- Auditor's projection of energy savings, by sector

#### Energy Efficiency Rating and Labeling

- Types of energy consuming devices for which energy-efficiency rating and labeling systems were endorsed by the State government, schools, or institutional procurement
- Number of units purchased, by type (e.g., vehicles, office equipment, HVAC equipment, streetlights, exit signs)

#### Industrial Retrofit Support

- Number of buildings retrofitted, by industry type
- Square footage of buildings retrofitted, by industry sector

#### Loans, Grants, and Incentives

- Number and monetary value of loans given
- Number and monetary value of grants given
- Number and monetary value of incentives provided

#### Renewable Energy Market Development

- Number and size of solar energy systems installed
- Number and size of wind energy systems installed
- Number and size of other renewable energy systems installed

#### Tax Credits

- Monetary value of tax credits given, by sector

#### Technical Assistance

- Number of contacts in which energy efficiency or renewable energy measures were recommended, by sector

#### Transportation

- Number of alternative fuel vehicles purchased
- Number of conventional vehicles converted to alternative fuel use
- Number of new alternative refueling stations emplaced
- Number of new carpools and vanpools formed
- Number of energy-efficient traffic signals installed
- Number of street lane-miles for which synchronized traffic signals were installed

#### Workshops, Training, and Education

- Number and type of workshops, training, and education sessions held
- Number of people attending workshops, training, and education sessions

#### 10.2B Outcomes:

##### Job Creation

- Number
- Type
- Duration

#### 10.3 Information to be Reported Annually (DOE will provide standard calculation methodology in future guidance)

##### 10.3A Critical Annual Reporting Metrics

##### Energy Savings (kwh equivalents)

- Annual reduction in natural gas consumption (mmcf)
- Annual reduction in electricity consumption (MWh)
- Annual reduction in electricity demand (MW)
- Annual reduction in fuel oil consumption (gallons)
- Annual reduction in propane consumption (gallons)
- Annual reduction in gasoline and diesel fuel consumption (gallons)

##### Renewable Energy Capacity and Generation

- Amount of wind-powered electric generating capacity installed (MW)
- Amount of electricity generated from wind systems (MWh)
- Amount of photovoltaic generating capacity installed (MW)
- Amount of electricity generated from photovoltaic systems (MWh)
- Amount of electric generating capacity from other renewable sources installed (MW)
- Amount of electricity generated from other renewable sources (MWh)

##### Emissions Reductions (tons) (CO2 equivalents)

- Carbon
- Sulfur dioxide
- Nitrogen oxide
- Carbon monoxide

SEP activities that do not fit well into these metrics should be reported as they have in the past.

#### 10.3B Measuring Progress Toward the EPACK 2005 Goal

The metrics listed above should be adapted to measure progress toward the energy efficiency goal set forth in Section 123 of EPACK 2005 of "an improvement of 25

percent or more in the efficiency of use of energy in the State concerned in calendar year 2012 as compared to calendar year 1990.”

10.3B1 Data to be Reported Annually Related to EPACT Goal: States should measure and report annually the change since 1990 in:

- Total energy use per capita;
- Residential energy use per capita;
- Commercial energy use per capita;
- Transportation energy use per capita;
- Total energy intensity of production (Btu per dollar of state real GDP);
- Industrial energy intensity of production.

In addition, where feasible states should include the following measures with their EPACT reporting:

- the change in the sectoral distribution of energy use since 1990 (percentage of total energy use by residential, industrial, commercial and transportation sectors), and
- the change in real GDP per capita.

The recommendations in this section are based on the EPACT requirement that activities contained in each state’s energy conservation plan must be linked to a state energy efficiency goal. By providing an assortment of goals rather than one single metric, it will be easier for states to link activities with appropriate interim goals as well as ultimate goals for 2012. For example, a state that has already significantly reduced its energy intensity of production may decide to focus its energy conservation plan on residential energy use, therefore its EPACT activities would be better measured by residential energy use per capita.

While the last two metrics do not measure the reduction in energy use, they may indicate whether changes in energy use may be related to broader economic transformations rather than energy efficiency measures. For example, an apparent improvement in industrial energy intensity may result less from successful conservation efforts and more from recession, if the economic downturn has resulted in the loss of heavy manufacturing. States should report changes in all of the recommended indices, and should indicate to DOE which are most pertinent to its state energy conservation plan.

10.3B2 Information Sources:

- The Energy Information Administration (EIA) State Energy Data System (SEDS) database provides a common data source for all States working toward the EPACT goal. A state should use the relevant SEDS data for 1990 as a baseline to calculate its goals, and then link each element of its State Plan to the appropriate goal.

There is currently a three-year lag in the SEDS data, which make current “snapshots” problematic but would not affect calculation of a state target nor affect planning toward the target. A state should develop its own “snapshot” methodology based on its best available information, but should update the SEDS time series as additional years become available in SEDS.

- A series of reference tables will be posted on the SEP website within 30 days of the issuance of this guidance, forecasting current energy trends to 2012 for each state, showing total and by sector energy use. One set will show trends in energy use per capita and the other, energy use per unit of GDP. Each set

will provide energy use for the 1990 baseline year, current energy use as of the most recent year available and a multi-year trend. The tables will reflect the most current information from EIA.

## CONCLUSION

The ARRA provides States an unprecedented opportunity to continue to demonstrate why they are considered the “laboratories of change” when it comes to energy policy and programs. The funding also represents the most significant opportunity States have had to collaborate regionally with neighboring States and locally with city and county governments that receive Energy Efficiency and Conservation Block Grant funding. The SEP grant funds that will be provided through the regular FY 2009 Federal appropriation will further this opportunity.

DOE looks forward to a tremendous record of accomplishment by the States and an equally outstanding performance with respect to the transparency and accountability provisions of the ARRA.

Gilbert P. Sperling  
Program Manager  
Office of Weatherization and Intergovernmental  
Program  
Energy Efficiency and Renewable Energy

Attachment

| State/Territory      | State Formula Allocations<br>FY 2009 Recovery Act Funds |
|----------------------|---|
| Alabama              | \$55,570,000  |
| Alaska               | \$28,232,000  |
| Arizona              | \$55,447,000  |
| Arkansas             | \$39,416,000  |
| California           | \$226,093,000   |
| Colorado             | \$49,222,000  |
| Connecticut          | \$38,542,000  |
| Delaware             | \$24,231,000  |
| District of Columbia | \$22,022,000  |
| Florida              | \$126,089,000   |
| Georgia              | \$82,495,000  |
| Hawaii               | \$25,930,000  |
| Idaho                | \$28,572,000  |
| Illinois             | \$101,321,000   |
| Indiana              | \$68,621,000  |
| Iowa                 | \$40,546,000  |
| Kansas               | \$38,284,000  |
| Kentucky             | \$52,533,000  |
| Louisiana            | \$71,694,000  |
| Maine                | \$27,305,000  |
| Maryland             | \$51,772,000  |
| Massachusetts        | \$54,911,000  |
| Michigan             | \$82,035,000  |
| Minnesota            | \$54,172,000  |
| Mississippi          | \$40,418,000  |
| Missouri             | \$57,393,000  |
| Montana              | \$25,855,000  |
| Nebraska             | \$30,910,000  |
| Nevada               | \$34,714,000  |
| New Hampshire        | \$25,827,000  |
| New Jersey           | \$73,643,000  |
| New Mexico           | \$31,821,000  |
| New York             | \$123,110,000   |
| North Carolina       | \$75,989,000  |
| North Dakota         | \$24,585,000  |
| Ohio                 | \$96,083,000  |
| Oklahoma             | \$46,704,000  |
| Oregon               | \$42,182,000  |
| Pennsylvania         | \$99,684,000  |
| Rhode Island         | \$23,960,000  |
| South Carolina       | \$50,550,000  |
| South Dakota         | 23,709,000  |
| Tennessee            | \$62,482,000  |
| Texas                | \$218,782,000   |
| Utah                 | \$35,362,000  |
| Vermont              | \$21,999,000  |
| Virginia             | \$70,001,000  |
| Washington           | \$60,944,000  |
| West Virginia        | \$32,746,000  |

|                   |                        |
|-------------------|------------------------|
| Wisconsin         | \$55,488,000           |
| Wyoming           | \$24,941,000           |
| American Samoa    | \$18,550,000           |
| Guam              | \$19,098,000           |
| Northern Marianas | \$18,651,000           |
| Puerto Rico       | \$37,086,000           |
| Virgin Islands    | \$20,678,000           |
| <b>Total</b>      | <b>\$3,069,000,000</b> |

DOE F 4600.2  
 (2/09)  
 All Other Editions Are  
 Obsolete

## ATTACHMENT 2 -- Reporting Requirements Checklist

**U.S. Department of Energy  
 FEDERAL ASSISTANCE REPORTING  
 CHECKLIST AND INSTRUCTIONS**

|  |             |   |  |  |             |   |             |  |             |   |             |  |  |  |
|--|-------------|---|--|--|-------------|---|-------------|--|-------------|---|-------------|--|--|--|
| 1. Identification Number:<br>FOA DE-FOA-0000052  |             | State Energy Program Formula, Grant, American<br>Recovery and Reinvestment Act (ARRA) |  |  |             |   |             |  |             |   |             |  |  |  |
| 3. Recipient:  |             |   |  |  |             |   |             |  |             |   |             |  |  |  |
| 4. Reporting Requirements:<br><b>A. MANAGEMENT REPORTING</b><br><input checked="" type="checkbox"/> Progress Report<br><input type="checkbox"/> Special Status Report  |             | Frequency<br><br>Q, F   | No. of Copies<br><br>Electronic<br>Version | Addressees<br><br>See Note 1                               |             |   |             |  |             |   |             |  |  |  |
| <b>B. SCIENTIFIC/TECHNICAL REPORTING</b><br>(Reports/Products must be submitted with appropriate DOE F 241. The 241 forms are available at <a href="http://www.osti.gov/elist">www.osti.gov/elist</a> )<br><table style="width: 100%; border: none;"> <tr> <td style="width: 60%;">Report/Product</td> <td style="width: 40%;">Form</td> </tr> <tr> <td><input type="checkbox"/> Final Scientific/Technical Report</td> <td>DOE F 241.3</td> </tr> <tr> <td><input type="checkbox"/> Conference papers/proceedings*</td> <td>DOE F 241.3</td> </tr> <tr> <td><input type="checkbox"/> Software/Manual</td> <td>DOE F 241.4</td> </tr> <tr> <td><input type="checkbox"/> Other (see Special Instructions)</td> <td>DOE F 241.3</td> </tr> </table> * <i>Scientific and technical conferences only</i> |             | Report/Product  | Form                                       | <input type="checkbox"/> Final Scientific/Technical Report | DOE F 241.3 | <input type="checkbox"/> Conference papers/proceedings* | DOE F 241.3 | <input type="checkbox"/> Software/Manual | DOE F 241.4 | <input type="checkbox"/> Other (see Special Instructions) | DOE F 241.3 |  |  |  |
| Report/Product   | Form        |   |  |  |             |   |             |  |             |   |             |  |  |  |
| <input type="checkbox"/> Final Scientific/Technical Report   | DOE F 241.3 |   |  |  |             |   |             |  |             |   |             |  |  |  |
| <input type="checkbox"/> Conference papers/proceedings*  | DOE F 241.3 |   |  |  |             |   |             |  |             |   |             |  |  |  |
| <input type="checkbox"/> Software/Manual   | DOE F 241.4 |   |  |  |             |   |             |  |             |   |             |  |  |  |
| <input type="checkbox"/> Other (see Special Instructions)  | DOE F 241.3 |   |  |  |             |   |             |  |             |   |             |  |  |  |
| <b>C. FINANCIAL REPORTING</b><br><input checked="" type="checkbox"/> SF-425, Federal Financial Report  |             | Q, F  | Electronic<br>Version                      | See Note 1   |             |   |             |  |             |   |             |  |  |  |
| <b>D. CLOSEOUT REPORTING</b><br><input type="checkbox"/> Patent Certification<br><input checked="" type="checkbox"/> Property Certification<br><input type="checkbox"/> Other (see Special Instructions)   |             | F   | Electronic<br>Version                      | See Note 2   |             |   |             |  |             |   |             |  |  |  |

|   |                   |   |  |
|---|-------------------|---|--|
| <p><b>E. OTHER REPORTING</b></p> <p><input checked="" type="checkbox"/> Annual Indirect Cost Proposal</p> <p><input type="checkbox"/> Annual Inventory Report of Federally Owned Property, if</p> <p><input checked="" type="checkbox"/> Other</p>  | <p>A</p> <p>A</p> | <p>Electronic Version</p> <p>Electronic Version</p> | <p>See Text</p> <p>See Notes 1 &amp; 3</p> |
| <p><b>FREQUENCY CODES AND DUE DATES:</b></p> <p>A - Within 5 calendar days after events or as specified.</p> <p>F - Final; 90 calendar days after expiration or termination of the award.</p> <p>Y - Yearly; 90 days after the end of the reporting period.</p> <p>S - Semiannually; within 30 days after end of reporting period.</p> <p>Q - Quarterly Progress Reports; due within 30 days after end of the reporting period.</p>   |                   |   |  |
| <p>5. Special Instructions: Forms are available at <a href="https://www.eere-pmc.energy.gov/forms.asp">https://www.eere-pmc.energy.gov/forms.asp</a>.</p> <p>1. Submit Reports (or provide email notification of WinSAGA entry) to the DOE Project Officer.</p> <p>2. The Recipient must provide the Property Certification, including the required inventories of non-exempt property, located at: <a href="https://grants.pr.doe.gov">https://grants.pr.doe.gov</a>. A signed copy of the Property Certification shall be submitted in PDF format to the NETL Property Administrator at the following address: <a href="mailto:Property.Administrator@netl.doe.gov">Property.Administrator@netl.doe.gov</a>.</p> <p><u>OTHER REPORTING</u></p> <p>3. ARRA – Performance Progress Report. This report shall be submitted quarterly; 10 days after the end of the reporting period.</p> |                   |   |  |

**Federal Assistance Reporting Instructions (2/09)****A. MANAGEMENT REPORTING****Progress Report**

The Progress Report must provide a concise narrative assessment of the status of work and include the following information and any other information identified under Special Instructions on the Federal Assistance Reporting Checklist:

1. The DOE award number and name of the recipient
2. The project title and name of the project director/principal investigator.
3. Date of report and period covered by the report.
4. A comparison of the actual accomplishments with the goals and objectives established for the period and reasons why the established goals were not met.
5. A discussion of what was accomplished under these goals during this reporting period, including major activities, significant results, major findings or conclusions, key outcomes or other achievements. This section should not contain any proprietary data or other information not subject to public release. If such information is important to reporting progress, do not include the information, but include a note in the report advising the reader to contact the Principal Investigator or the Project Director for further information
6. Cost Status. Show approved budget by budget period and actual costs incurred. If cost sharing is required break out by DOE share, recipient share, and total costs.
7. Schedule Status. List milestones, anticipated completion dates and actual completion dates. If you submitted a project management plan with your application, you must use this plan to report schedule and budget variance. You may use your own project management system to provide this information.
8. Any changes in approach or aims and reasons for change. Remember significant changes to the objectives and scope require prior approval by the contracting officer.
9. Actual or anticipated problems or delays and actions taken or planned to resolve them.
10. Any absence or changes of key personnel or changes in consortium/teaming arrangement.

11. A description of any product produced or technology transfer activities accomplished during this reporting period, such as:

- a. Publications (list journal name, volume, issue); conference papers; or other public releases of results. Attach or send copies of public releases to the DOE Project Officer identified in Block 11 of the Notice of Financial Assistance Award.
- b. Web site or other Internet sites that reflect the results of this project.
- c. Networks or collaborations fostered.
- d. Technologies/Techniques.
- e. Inventions/Patent Applications.
- f. Other products, such as data or databases, physical collections, audio or video, software or netware, models, educational aid or curricula, instruments or equipment.

### C. FINANCIAL REPORTING

Recipients must complete the SF-425 as identified on the Reporting Checklist in accordance with the report instructions. A fillable version of the form is available at [http://www.whitehouse.gov/omb/grants/grants\\_forms.aspx](http://www.whitehouse.gov/omb/grants/grants_forms.aspx).

### D. CLOSEOUT REPORTS

#### Property Certification

The recipient must provide the Property Certification, including the required inventories of non-exempt property, located at <http://grants.pr.doe.gov>.

### E. OTHER REPORTING

#### Annual Indirect Cost Proposal and Reconciliation

Requirement. In accordance with the applicable cost principles, the recipient must submit an annual indirect cost proposal, reconciled to its financial statements, within six months after the close of the fiscal year, unless the award is based on a predetermined or fixed indirect rate(s), or a fixed amount for indirect or facilities and administration (F&A) costs.

Cognizant Agency. The recipient must submit its annual indirect cost proposal directly to the cognizant agency for negotiating and approving indirect costs. If the DOE awarding office is the cognizant agency, submit the annual indirect cost proposal to the address on the Reporting Requirements Checklist.

#### ARRA Performance Progress Report

##### Progress Report

The Progress Report must be submitted not later than 10 days after the end of each calendar quarter, each recipient shall submit a report to the grantor agency that contains:

- The total amount of American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, covered funds received from that agency;
- The amount of American Recovery and Reinvestment Act of 2009, Pub. L.

111-5, covered funds received that were expended or obligated to project or activities;

- A detailed list of all projects or activities for which American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, covered funds were expended or obligated including:
  - Name of project or activity
  - Description of project or activity
  - Evaluation of the completion status of project or activity
  - Estimate of number of jobs created and retained by project or activity *in the manner and form prescribed by DOE*
  - Infrastructure investments made by State and local governments, purpose, total cost, rationale or agency for funding infrastructure investment, name of agency contact.
  - Information on subcontracts or subgrants awarded by recipient to include data elements required to comply with the Federal Accountability and Transparency Act of 2006 (Pub. L. 109-282).
- Compliance: As a condition of receipt of funds under this Act, no later than 180 days of enactment, all recipients shall provide the information described above.

*Failure to comply with this reporting requirement may result in termination of that part of the award funding by Recovery Act.*

### **ATTACHMENT 3 -- GOVERNOR'S ASSURANCE CERTIFICATION**

By signing below, the State Governor is providing their written certification that they will comply with and obtain the following assurances in accordance with Section 410 of the Recovery Act.

- (1) The applicable State regulatory authority will seek to implement, in appropriate proceedings for each electric and gas utility, under its rate-making authority a general policy that ensures that utility financial incentives are aligned with helping their customers use energy more efficiently and that provide timely cost recovery and a timely earnings opportunity for utilities associated with cost-effective measurable and verifiable efficiency savings, in a way that sustains or enhances utility customers' incentives to use energy more efficiently.
- (2) The State, or the applicable units of local government that have authority to adopt building codes, will implement the following:
  - (A) A residential building energy code (or codes) that meets or exceeds the most recent International Energy Conservation Code, or achieves equivalent or greater energy savings.
  - (B) A commercial building energy code (or codes) throughout the State that meets or exceeds the ANSI/ASHRAE/IESNA Standard 90.1-2007, or achieves equivalent or greater energy savings.
  - (C) A plan to achieve 90 percent compliance with the above energy codes within eight years. This plan will include active training and enforcement programs and annual measurement of the rate of compliance.
- (3) The State will to the extent practicable prioritize the grants toward funding energy efficiency and renewable energy programs, including—
  - (A) the expansion of existing energy efficiency programs approved by the State or the appropriate regulatory authority, including energy efficiency retrofits of buildings and industrial facilities, that are funded by the State or through rates under the oversight of the applicable regulatory authority, to the extent applicable;
  - (B) the expansion of existing programs, approved by the State or the appropriate regulatory authority, to support renewable energy projects and deployment activities, including programs operated by entities which have the authority and capability to manage and distribute grants, loans, performance incentives, and other forms of financial assistance; and
  - (C) cooperation and joint activities between States to advance more efficient and effective use of this funding to support the priorities described in this section.

\_\_\_\_\_  
State Governor Signature

\_\_\_\_\_  
Date

## **V. 35-A M.R.S.A 10004:**

**Title 35-A: PUBLIC UTILITIES HEADING: PL 1987, C. 141, PT. A, §6 (NEW)**

**Part 8: ENERGY EFFICIENCY HEADING: PL 2003, C. 644, §9 (NEW)**

**Chapter 95: ENERGY EFFICIENCY HEADING: PL 2003, C. 644, §9 (NEW)**

### **§10004. Federal energy programs**

**1. Administration of programs.** The commission shall administer:

A. The United States Department of Energy State Energy Program; and [2003, c. 644, §9 (NEW).]

B. Other federally funded programs related to functions that the commission performs. [2003, c. 644, §9 (NEW).]  
[ 2003, c. 644, §9 (NEW) .]