

**EXECUTIVE DEPARTMENT
DELAWARE ECONOMIC DEVELOPMENT OFFICE**

Statutory Authority: 29 Delaware Code, Section 5053(k), (29 **Del.C.** §5053(k))
1 **DE Admin. Code** 476, 477, & 478

PROPOSED

PUBLIC NOTICE

**476 Energy Alternatives Program Regulation
477 Information Technology Training Grant Program Regulation
478 Neighborhood Assistance Act Tax Credit Program Regulation**

The Delaware Economic Development Office (DEDO) conducted public hearings in Kent, New Castle and Sussex counties as part of the Governor's Executive Order designed to re-assess the need for the agency's regulations. Based on the public hearings and internal agency review of its regulations, DEDO proposes that Section 476 (Energy Alternatives Program Regulation); Section 477 (Information Technology Training Grant Program); and, Section 478 (Neighborhood Assistance Act Tax Credit Program) should be deleted from the administrative code because the programs do not exist or the authorizing statute has been repealed.

DEDO does not plan to hold a public hearing on the proposed amendments to be eliminated. The proposed amendments to be eliminated appear below and can also be viewed at the Delaware Economic Development Office's website at: <http://dedo.delaware.gov>. Any person can file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amended regulations. Any written submission in response to this notice and relevant to the proposed amended regulations must be received by DEDO no later than December 1, 2016. Any such requests should be directed to:

Amber Mudri
Delaware Economic Development Authority
99 King's Highway
Dover, DE 19901
Phone: (302) 672-6818
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~~476 Energy Alternatives Program Regulation~~

~~1.0 Introduction~~

~~This regulation is promulgated under the authority granted to the Director of the Delaware Economic Development Office ("DEDO") by 29 **Del.C.** §5005(11) to make regulations for the administration and operation of DEDO. One of the programs administered by DEDO is the Energy Alternatives Program established in 26 **Del.C.** §1014(a) as part of The Electric Utility Restructuring Act of 1999. The Energy Alternatives Program is designed to introduce renewable energy technologies into the Delaware market by reducing the net system costs through the use of rebates. This regulation sets forth the definition of certain terms used in the Energy Alternatives Program and describes (i) the eligibility requirements for persons desiring to participate in the program, (ii) the systems that now qualify for rebates, (iii) how to apply for a rebate, (iv) how rebate requests will be evaluated and processed and the rebates disbursed, and (v) other administrative features of the Energy Alternatives Program.~~

~~2.0 Definitions.~~

~~For purposes of this regulation, the following initially capitalized words and phrases shall have the meanings set forth below.~~

~~"Conectiv Power Delivery"~~ means the trade name used by Delmarva Power and Light Company.

~~"DEDO"~~ has the meaning set forth in Section 1.0 hereof.

~~"DP&L Service Territory"~~ means the service territory of Delmarva Power and Light Company, doing business as Conectiv Power Delivery, or its successor, as such territory is reflected in the electric service territory maps maintained by the Delaware Public Service Commission under the authority of 26 **Del.C.** § 203B.

"Eligible Qualifying Geothermal Heat Pump System Costs" has the meaning set forth in Section 3.4.3 hereof.

"Eligible Qualifying Photovoltaic System Costs" has the meaning set forth in Section 3.2.4 hereof.

"Eligible Qualifying Solar Water Heating Costs" has the meaning set forth in Section 3.3.4 hereof.

"Eligible Qualifying Wind Turbine System Costs" has the meaning set forth in Section 3.5.4 hereof.

"Energy Alternatives Program" has the meaning set forth in Section 1.0 hereof.

"Energy Alternatives Program Manager" means the State Energy Office employee whose duties include consultation with DEDO in the management and administration of the Environmental Incentive Fund, and the Energy Alternatives Program.

"Energy Alternatives Rebate" for Photovoltaic, Solar Water Heating and Wind Turbine systems means, except as provided hereafter, 35% of Eligible Qualifying Photovoltaic System Costs, Eligible Qualifying Solar Water Heating System Costs, or Eligible Qualifying Wind Turbine System Costs, as the case may be, subject to the following limitations: if the Qualifying System is to be used by a Nonresidential Purchaser, an Energy Alternatives Rebate shall not exceed \$250,000; if the Qualifying System is a Photovoltaic system to be used by a Residential Purchaser, an Energy Alternatives Rebate shall not exceed \$10,500 per Residential Dwelling Unit; if the Qualifying System is to be used by a Residential Purchaser for Solar Water Heating, an Energy Alternatives Rebate shall not exceed \$1,500 per Residential Dwelling Unit; if the Qualifying System is to be used by a Residential Purchaser for a Wind Turbine System, an Energy Alternatives Rebate shall not exceed \$5,000 per Residential Dwelling Unit. Energy Alternatives Rebate for a Geothermal Heat Pump system means the lesser of 35% of the Eligible Qualifying Geothermal Heat Pump System Costs, or \$500 per Ton of Capacity. An Energy Alternative Rebate for a Nonresidential Geothermal Heat Pump system shall not exceed \$25,000. An Energy Alternatives Rebate for a Residential Geothermal Heat Pump system shall not exceed \$2,500.

"Environmental Incentive Fund" means the fund established by 26 Del.C. §1014(a) and administered by the Delaware Economic Development Office, in consultation with the State Energy Office and the Division of Public Advocate.

"Fiscal Year" means the budget and accounting year of the State beginning on July 1 and ending on June 30. Reference to a Fiscal Year by year number means the Fiscal Year ending on June 30 of the named year. For example, a reference to Fiscal Year 2001 means the period beginning on July 1, 2000 and ending on June 30, 2001.

"Freeze Tolerance Limit" means the temperature below which a Qualifying System for Solar Water Heating might suffer damage attributable to freezing.

"Geothermal Heat Pump" means either an open or closed loop system, or direct expansion system that uses the thermal energy of the ground or groundwater as the heat source and heat sink for residential or non-residential space heating and/or cooling. It may provide both space heating and cooling, cooling only or heating only functions. A closed-loop system consists of a ground heat exchanger in which the heat transfer fluid is permanently contained in a closed system. An open-loop system consists of a ground heat exchanger in which the heat transfer fluid is part of a larger environment. A direct expansion system consists of a geothermal heat pump system in which the refrigerant is circulated in pipes buried in the ground, rather than using a heat transfer fluid, such as water or antifreeze solution in a separate closed loop, and fluid to refrigerant heat exchanger.

"Grid-connected", "Grid-tied" or "Interconnected" means a condition in which a Qualifying System that is an electrical generating system serves and is electrically connected to an electrical load that is also connected to and served by the local utility electrical grid. The delivery, or ability to deliver, any portion of the generating capacity into the utility electrical grid is not required, nor must the loads served be only alternating current loads. The Photovoltaic or Wind Turbine system need only to be capable of serving electrical loads that would otherwise be served by the local utility.

"Kilowatt" means 1,000 Watts.

"Kilowatt-hour" means the basic unit of electric energy equal to one Kilowatt of power supplied to or taken from an electric circuit steadily for one hour. One Kilowatt hour equals 1,000 Watt-hours. Electric energy is commonly sold by the Kilowatt-hour.

"Nonresidential" means all classes of customer purchasing electric power for uses other than for individual households. These groups of customers generally purchase electric power for commercial and industrial purposes. When used as an adjective with respect to Qualified Systems or Energy Alternatives Rebates, such term refers to systems owned by, or leased to, or rebates granted to Nonresidential persons.

"Nonresidential List" has the meaning set forth in Section 4.2.2 hereof.

"Nonresidential Pool" has the meaning set forth in Section 4.1.1.3 hereof.

"Photovoltaic" means a nonmechanical semiconductor device, most commonly made of silicon, that produces direct current (dc) electricity.

"Placed in Service" means installed, operational and producing output.

"Program Documentation Checklist" means the "Energy Alternatives Program Documentation Checklist (EO-1000)" or other form prescribed by the State Energy Office for the same purpose.

"Purchaser" means the purchaser or lessee of a Qualifying System.

"Qualifying System" has the meaning set forth in Section 3.0 hereof.

"Rebate Confirmation and Claim Form" means the **"Energy Alternatives Program Rebate Confirmation and Claim Form (EO-1002)"** or other form prescribed by the State Energy Office for the same purposes.

"Rebate Reservation" means the reservation of the amount of a requested Energy Alternatives Rebate against the previously unreserved funds within the Nonresidential Pool or the Residential Pool of the Environmental Incentive Fund available for Energy Alternatives Rebates in accordance with Section 4.2.3 hereof.

"Rebate Reservation Number" has the meaning set forth in Section 4.2.2 hereof.

"Rebate Reservation Request" means the request of a Purchaser for the reservation of an Energy Alternatives Rebate made in accordance with the procedures specified in Section 4.2 hereof.

"Rebate Reservation Request Form" means the "Energy Alternatives Program Rebate Reservation Request Form—Photovoltaic (EO 1001PV)", the "Energy Alternatives Program Rebate Reservation Request Form—Solar Water Heating (EO 1001SWH)", the "Energy Alternatives Program Rebate Reservation Request Form—Geothermal (EO 1001GEO)" the "Energy Alternatives Program Rebate Reservation Request Form—Wind Turbine (EO 1001WT)", or such other form prescribed by the State Energy Office for making a Rebate Reservation Request pursuant to Section 4.2 hereof.

"Residential" means the class or classes of customers purchasing electric power for household uses. When used as an adjective with respect to Qualified Systems or Energy Alternatives Rebates, such term refers to systems owned by, or leased to, or rebates granted to Residential persons.

"Residential Dwelling Unit" means a single-family house, whether free-standing or attached to one or more other houses, or an apartment. A Residential Dwelling Unit must be separately metered for purposes of measuring electricity consumption.

"Residential List" has the meaning set forth in Section 4.2.2 hereof.

"Residential Pool" has the meaning set forth in Section 4.1.1.3 hereof.

"Retailer" means the vendor or lessor of a Qualifying System.

"Solar Water Heating" means the heating of water by use of the sun's energy rather than electricity or gas.

"State" means the State of Delaware.

"Ton of Capacity" means 12,000 British Thermal Units (BTU) per hour of capacity.

"Vendor Data Form" means the "Energy Alternatives Program Vendor Data Form" or other form prescribed by the State Energy Office for the same purpose.

"Watt" means the basic unit of measure of real electric power, or rate of doing work.

"Watt-hour" means the basic unit of measure of electric energy consumption. The total amount of energy used in one hour by a device that requires one Watt of power for continuous operation.

"Wind Turbine" means a mechanical/electrical system that converts the kinetic energy of blowing wind into electric power.

3.0 Qualifying System

- 3.1 In General. A Qualifying System must be located within the DP&L Service Territory, and the Purchaser must be a customer of Conectiv Power Delivery. Only Photovoltaic, Solar Water Heating, Geothermal Heat Pump and Wind Turbine systems may constitute Qualifying Systems.
 - 3.1.1 Code Compliance; Contractor Licensing. All Qualifying Systems must be installed in accordance with standards and specifications of the manufacturers of the components in such systems and in compliance with all applicable electrical, plumbing and building codes.
 - 3.1.2 Warranties. All Qualifying Systems must have a full 5-year warranty against component failure, malfunction and premature output degradation. The warranty must cover all components for which the Energy Alternatives Rebate is granted and cover the full cost of repair and replacement of all components of the system. For professionally installed systems, the warranty must cover the labor to remove and replace defective components and systems.
- 3.2 Photovoltaic Systems.

- 3.2.1 ~~Capacity. In order to be a Qualifying System, Photovoltaic systems must have an expected annual system output that does not exceed the historic or current electricity needs of the Purchaser at the installation site. Qualifying Systems must produce at least 300 Watts. For Qualifying Systems producing more than 10,000 Watts (i.e., 10 Kilowatts), the Energy Alternatives Program Manager may require additional evidence of feasibility with the Rebate Reservation Request Form. If the installation site is new construction, the expected annual system output must not exceed the estimated building electrical needs, as set forth in the Conectiv Power Delivery service request with respect to the installation site submitted by the Purchaser.~~
- 3.2.2 ~~Technical Standards. All photovoltaic modules must be certified by a nationally recognized testing laboratory as meeting the requirements of the Underwriters Laboratory Standard 1703. All qualifying grid-connected systems must comply with the Institute of Electrical and Electronic Engineers Standards Board (IEEE) 929, Recommended Practice for Utility Interface of Photovoltaic (PV) Systems and the appropriate generation interconnection arrangements of Conectiv Power Delivery's, Technical Considerations Covering Parallel Operations of Customer Owned Generation of Less than 1 Megawatt and Interconnected with the Conectiv Power Delivery System. Conectiv's generation interconnection documents are available on the Division of the Public Advocate's web site at www.state.de.us/publicadvocate. All inverters must be certified by a nationally recognized testing laboratory for safe operation as well as be certified as meeting the requirements of Underwriters Laboratory Standards 1741-1999, Standard for Static Inverters and Charge Controllers for Use in Photovoltaic Power Systems.~~
- 3.2.3 ~~Cost Limitations. A Photovoltaic system may not have Eligible Qualifying Photovoltaic System Costs in excess of \$12 per Watt.~~
- 3.2.4 ~~Eligible Qualifying Photovoltaic System Costs. "Eligible Photovoltaic Qualifying System Costs" means (i) the sum of costs of the components of a Qualifying System that are used to convert sunlight to electricity, the labor costs for the installation of such components, the cost of required permits and fees for the construction or installation of a Qualifying System and, in the case of a Qualifying System to be used by a Nonresidential Purchaser, engineering costs associated with such system not to exceed 10% of the total cost of such system; minus, (ii) all other incentives associated with such Qualifying System and received by the Purchaser, including grants, rebates, buy downs cost sharing or any similar form of financial incentive other than a federal income tax credit. In order to be counted toward Eligible Qualifying System Costs, components of a Qualifying System must be new and previously unused. Examples of the components of a Qualifying System that is Photovoltaic, the costs of which may be counted toward Eligible Qualifying System Costs, are the photovoltaic module, the foundation for such photovoltaic module, mounting or tracking structures and wiring, inverters and utility interconnection equipment. Components that are energy storage equipment may not be counted toward Eligible Qualifying System Costs.~~

3.3 ~~Solar Water Heating~~

- 3.3.1 ~~Capacity. In order to be a Qualifying System a Solar Water Heating system must have a minimum combined tank capacity of 80 gallons. A Solar Water Heating system must be designed to reduce or eliminate the need for electric or gas-heated hot water.~~
- 3.3.2 ~~Technical Standards. All Qualifying Systems that are Residential Solar Water Heating systems must be certified to meet the Solar Rating and Certification Corporation's (SRCC) OG-300, Operating Guidelines and Minimum Standards for Certifying Solar Water Heating Systems: An Optional Solar Water Heating System Certification and Rating Program and have a Freeze Tolerance Limit of minus 21 degrees Fahrenheit without electrical power. All Qualifying Systems that are Nonresidential Solar Water Heating systems must utilize collectors certified to meet the Solar Rating and Certification Corporation's (SRCC) OG-100, Operating Guidelines for Certifying Solar Collectors.~~
- 3.3.3 ~~Cost Limitations. A Solar Water Heating system may not have Eligible Qualifying Solar Water Heating System Costs in excess of \$2.50 per Kilowatt-Hour of annual energy savings, as estimated by the Solar Rating and Certification Corporation's (SRCC) OG-300 Estimated Annual Performance document.~~
- 3.3.4 ~~Eligible Qualifying Solar Water Heating System Costs. "Eligible Qualifying Solar Water Heating System Costs" means (i) the sum of costs of the components of a Qualifying System that are used to convert sunlight to heated water, the labor costs for the installation of such components, the cost of required permits and fees for the construction or installation of a Qualifying System and, in the case of a Qualifying System to be used by a Nonresidential Purchaser, engineering costs associated with such system not to exceed 10% of the total cost of such system; minus, (ii) all other incentives associated with such Qualifying System and received by the Purchaser, including grants, rebates, buy downs cost sharing or any similar form of financial incentive other than a federal income tax credit. In order to be counted toward Eligible Qualifying System Costs, components of a Qualifying System must be new and previously unused. Examples of the components of a Qualifying System for Solar Water Heating, the costs of which may be counted toward Eligible Qualifying System Costs, are collectors, mounting components, storage tanks,~~

circulators, controllers, timers, heat exchangers, expansion tanks, piping and insulation. Components that are point of use heating devices or solar pool heating equipment may not be counted toward Eligible Qualifying System Costs.

3.4 Geothermal Heat Pump

3.4.1 Capacity. In order to be a Qualifying System a Geothermal Heat Pump must be sized in accordance with good heating, ventilation and air conditioning design practices for the occupancy and location. Vendor shall provide a Manual J calculation, or other equivalent calculation, to determine proper size of equipment.

3.4.2 Technical Standards. All Qualifying Systems must have a warranty for protection of the integrity and performance of the ground heat exchanger for at least five years. All Qualifying Systems must meet the following:

3.4.2.1 Closed loop systems shall qualify under rating conditions in accordance with ISO 13256-1.

3.4.2.2 Open loop systems shall qualify under rating conditions in accordance with ISO 13256-1.

DX systems shall qualify under rating conditions in accordance with ARI 870.

3.4.3 Eligible Qualifying Geothermal Heat Pump System Costs. "Eligible Qualifying Geothermal Heat Pump System Costs" means (i) the sum of costs of the components of a Qualifying System that are used to collect and/or reject heat to the ground or groundwater, the labor costs for the installation of such components, the cost of required permits and fees for the construction or installation of a Qualifying System and, in the case of a Qualifying System to be used by a Nonresidential Purchaser, engineering costs associated with such system not to exceed 10% of the total cost of such system; minus, (ii) all other incentives associated with such Qualifying System and received by the Purchaser, including grants, rebates, buy downs cost sharing or any similar form of financial incentive other than a federal income tax credit. In order to be counted toward Eligible Qualifying System Costs, components of a Qualifying System must be new and previously unused. Examples of the components of a Qualifying System for Geothermal Heat Pump systems, the costs of which may be counted toward Eligible Qualifying System Costs, are wells and well drilling, in-ground piping and heat exchanger loops and excavation for such piping and loops, circulating pumps, controllers, timers, heat exchangers, expansion tanks, piping and insulation. Vapor-compression heat pump units, air handling units, fans, ductwork, filter systems, and other fluid and air handling system components are excluded.

3.5 Wind Turbine

3.5.1 Capacity. In order to be a Qualifying System, Wind Turbine systems must have an expected annual system output that does not exceed the historic or current electricity needs of the Purchaser at the installation site. The Energy Alternatives Program Manager may require additional evidence of feasibility with the Rebate Reservation Request Form. The Energy Alternatives Program Manager may also reject applications if the location of the proposed Wind Turbine System has an inadequate wind resource for reasonable utilization of the equipment. If the installation site is new construction, the expected annual system output must not exceed the estimated building electrical needs, as set forth in the Conectiv Power Delivery service request with respect to the installation site submitted by the Purchaser.

3.5.2 Technical Standards. All qualifying grid-connected systems must comply with the Institute of Electrical and Electronic Engineers Standards Board (IEEE) 929, Recommended Practice for Utility Interface of Photovoltaic (PV) Systems and the appropriate generation interconnection arrangements of Conectiv Power Delivery's, Technical Considerations Covering Parallel Operations of Customer Owned Generation of Less than 1 Megawatt and Interconnected with the Conectiv Power Delivery System. Conectiv's generation interconnection documents are available on the Division of the Public Advocate's web site at www.state.de.us/publicadvocate. All inverters must be certified by a nationally recognized testing laboratory for safe operation as well as be certified as meeting the requirements of Underwriters Laboratory Standards 1741-1999, Standard for Static Inverters and Charge Controllers for Use in Photovoltaic Power Systems.

3.5.3 Cost Limitations. A Wind Turbine system may not have Eligible Qualifying Wind Turbine System Costs in excess of \$5.00 per Watt.

3.5.4 Eligible Qualifying Wind Turbine System Costs. "Eligible Qualifying Wind Turbine Systems Costs" means (i) the sum of costs of the components of a Qualifying System that are used to convert wind energy to electricity, the labor costs for the installation of such components, the cost of required permits and fees for the construction or installation of a Qualifying System and, in the case of a Qualifying System to be used by a Nonresidential Purchaser, engineering costs associated with such system not to exceed 10% of the total cost of such system; minus, (ii) all other incentives associated with such Qualifying System and received by the Purchaser, including grants, rebates, buy downs cost sharing or any similar form of financial incentive other than a federal income tax credit. In order to be counted toward Eligible Qualifying

System Costs, components of a Qualifying System must be new and previously unused. Examples of the Wind Turbine System components of a Qualifying System, the costs of which may be counted toward Eligible Qualifying System Costs, are the wind turbine generator assembly, tower, tower foundations, other support structure components, wiring, inverters and utility interconnection equipment. Components that are energy storage equipment may not be counted toward Eligible Qualifying System Costs.

4.0 ~~Energy Alternatives Rebate Reservation and Payment Procedure~~

4.1 ~~Availability of Funds; Duration of Program.~~

4.1.1 ~~In General.~~

4.1.1.1 ~~Program Duration.~~ Energy Alternatives Rebates will be available on the effective date of this regulation. DEDO may, however, modify or suspend the Energy Alternatives Program and the criteria for, or availability of Energy Alternatives Rebates. Such action shall be taken in consultation with the State Energy Office and the Division of the Public Advocate.

4.1.1.2 ~~Funds Available.~~ The availability of any amount for Energy Alternatives Rebates will depend entirely upon whether sufficient unencumbered funds are available in the Environmental Incentive Fund at the beginning of a Fiscal Year, or are deposited pursuant to ~~26 Del.C., §1014(a)~~ into the Environmental Incentive Fund pursuant to Section 4.1.1.5 hereof during such Fiscal Year. DEDO can give no assurance that any funds will be available for Energy Alternatives Rebates.

4.1.1.3 ~~Allocation of Environmental Incentive Fund for Nonresidential and Residential Energy Alternatives Rebates.~~ On the effective date of this regulation, DEDO will allocate sixty percent (60%) of the Environmental Incentive Fund for the funding of Nonresidential Energy Alternatives Rebates (the "Nonresidential Pool") and forty percent (40%) of the Environmental Incentive Fund for the funding of Residential Energy Alternatives Rebates (the "Residential Pool"). DEDO will allocate all funds received in the Environmental Incentive Fund after the effective date of this regulation in the same proportion into the Nonresidential Pool or the Residential Pool.

4.1.1.4 ~~Carry Forwards.~~ At the end of each Fiscal Year amounts in the Nonresidential Pool and the Residential Pool shall carry forward into the next Fiscal Year within the same pool.

4.1.1.5 ~~Waiting List.~~ If, at any time, the State Energy Office has made Rebate Reservations within the Nonresidential Pool or the Residential Pool of all funds in such pool, the State Energy Office will not disburse further Energy Alternatives Rebates from such pool, unless and until additional funds become available in such pool; however, it will continue to accept, evaluate and classify Rebate Reservation Request Forms and will continue to assign Rebate Reservation Numbers to Rebate Reservation Requests in accordance with Section 4.2.2. If additional funds become available within a pool for Energy Alternatives Rebates, the State Energy Office will process such rebates in the order of the Rebate Reservation Numbers in either the Nonresidential List or the Residential List, as the case may be, assigned to Rebate Reservation Requests. There can be no assurance that additional funds for Energy Alternatives Rebates will become available. Rebate Reservation Requests that have been assigned Rebate Reservation Numbers, but for which funds are unavailable at any time at which the Director of DEDO decides to suspend the Energy Alternatives Program shall lapse, and the persons who submitted such Rebate Reservation Requests shall have no right to receive any funds from the State with respect to their Rebate Reservation Requests.

4.1.2 ~~Special Rule for Qualifying Systems Placed in Service during Fiscal Year 2001.~~ Purchasers of Qualifying Systems Placed in Service during Fiscal Year 2001 may apply for an Energy Alternatives Rebate even though they were unable to submit Rebate Reservation Request Forms until after the end of Fiscal Year 2001.

4.2 ~~Rebate Reservation Procedure.~~

4.2.1 ~~Submission of Rebate Reservation Request Form.~~ Purchasers or Retailers may submit a Rebate Reservation Request Form to the State Energy Office at the address set forth hereafter. The Rebate Reservation Request Form (i) must be on the appropriate Rebate Reservation Request Form for the type of Qualifying System being installed, (ii) must provide all requested information, (iii) must be accompanied by all required accompanying documentation specified in the Program Documentation Checklist, and (iv) must be signed by the Purchaser. A Nonresidential Purchaser who proposes to construct either a Qualifying Photovoltaic System or a Qualifying Wind Turbine System with a capacity exceeding 10 Kilowatts, or a Qualifying Geothermal Heat Pump System, and who intends to request a 12-month Rebate Reservation in accordance with Section 4.2.3 hereof shall also submit preliminary plans and a project schedule so that the State Energy Office can determine the feasibility of the system. It is the responsibility of the Purchaser to ensure that a Rebate Reservation Request Form is accurate, complete and contains all

~~required accompanying documentation. Rebate Reservation Request Forms and accompanying documentation shall be submitted to the following address:~~

~~State Energy Office~~

~~Attention: Energy Alternatives Program Manager~~

~~149 Transportation Circle~~

~~Dover, DE 19901~~

- ~~4.2.2 State Energy Office Processing of Rebate Reservation Request Form; Assignment of Rebate Reservation Numbers within Nonresidential Pool or Residential Pool. The State Energy Office will review and evaluate the Rebate Reservation Request Form and the accompanying documentation for accuracy, completeness (including all required accompanying documentation) and eligibility of the proposed project as a Qualifying System. In making its evaluation of the Rebate Reservation Request Form and accompanying documentation and in determining whether the proposed project is a Qualifying System, the State Energy Office may request further information, or inspect the site of the proposed project. The State Energy Office shall reject any Rebate Reservation Request, if the Rebate Reservation Request Form is not accurate or complete (including all required accompanying documentation), or if the proposed project is not a Qualifying System, and shall notify the Purchaser of such rejection in writing. After the State Energy Office completes its review of a Rebate Reservation Request Form and all required accompanying documentation and if it determines (i) that such submitted forms are accurate and complete (including all required accompanying documentation) and (ii) that the project being proposed is a Qualifying System, the State Energy Office shall take the following actions: First, it will classify each Rebate Reservation Request as a request to be reserved against the Nonresidential Pool or the Residential Pool, depending on whether the Rebate Reservation Request describes a Nonresidential or a Residential Qualifying System and assign such Rebate Reservation Request to a list of Nonresidential Rebate Reservation Requests (the "Nonresidential List") or a list of Residential Rebate Reservation Requests (the "Residential List"). Second, it will assign a unique consecutive number to each such Rebate Reservation Request within either the Nonresidential List or the Residential List based on the chronological order of the date on which such form was submitted in complete form (a "Rebate Reservation Number").~~
- ~~4.2.3 Reservation of Energy Alternatives Rebate. When the State Energy Office assigns a Rebate Reservation Number to a Rebate Reservation Request, provided that sufficient previously unreserved funds are available for Energy Alternatives Rebates in the Nonresidential Pool (in the case of Nonresidential Rebate Reservation Requests) or the Residential Pool (in the case of Residential Rebate Reservation Requests), the State Energy Office shall reserve the amount of the Energy Alternatives Rebate so requested (subject to the applicable limitations) against the funds in the Nonresidential Pool (in the case of Nonresidential Rebate Reservation Requests) or the Residential Pool (in the case of Residential Rebate Reservation Requests) (a "Rebate Reservation"). A Rebate Reservation shall be valid for six months from the date on which the State Energy Office makes such Rebate Reservation. If the Purchaser with respect to a Nonresidential Photovoltaic Qualifying System, or a Nonresidential Wind Turbine Qualifying System with a capacity exceeding 10 Kilowatts, or a Nonresidential Geothermal Heat Pump Qualifying System makes a written request therefor, the State Energy Office may, after such further investigation of the proposed project as it deems necessary, extend the validity of the Rebate Reservation to twelve months from the date on which the State Energy Office made such Rebate Reservation. When a Rebate Reservation expires, it shall be of no further effect and the Rebate Reservation Request with respect to which it was made shall be deemed to have been rejected as of such expiration date. If the State Energy Office has assigned a Rebate Reservation Number to a Rebate Reservation Request but was unable to make a Rebate Reservation because of the unavailability of funds for such purpose within the Nonresidential Pool (in the case of Nonresidential Rebate Reservation Requests) or the Residential Pool (in the case of Residential Rebate Reservation Requests), and if funds within the applicable pool sufficient to make such Rebate Reservation subsequently become available, the State Energy Office shall make the Rebate Reservation when such funds become available. Promptly after making a Rebate Reservation, the State Energy Office shall inform the Purchaser who made the Rebate Reservation Request of the amount of the Rebate Reservation and the date on which such Rebate Reservation expires by mailing a Rebate Confirmation and Claim Form to the Purchaser.~~
- ~~4.2.4 Modification of Rebate Reservation Request. A Purchaser may request in writing a modification of a Rebate Reservation Request at any time prior to the disbursement of the Energy Alternatives Rebate requested. A request for a modification of a Rebate Reservation Request, other than a minor modification, will be treated as a new Rebate Reservation Request, and the State Energy Office will evaluate the request for modification as such. The State Energy Office will exercise its discretion in determining whether a requested modification is considered "minor." Upon receipt of a request for modification of a Rebate Reservation Request that the State Energy Office does not consider minor, any prior Rebate Reservation~~

made by the State Energy Office with respect to the Rebate Reservation Request sought to be modified will expire. The State Energy Office will evaluate the modified request. If it determines (i) that the modified Rebate Reservation Request Form and any accompanying documentation are accurate and (ii) that the modified project being proposed is a Qualifying System, the State Energy Office shall assign a new Rebate Reservation Number to the modified Rebate Reservation Request and proceed in accordance with Section 4.2.3.

- 4.3- ~~Claim for and Disbursement of Energy Alternatives Rebate. If the State Energy Office makes a Rebate Reservation with respect to a Rebate Reservation Request Form, after the Qualifying System described in such Rebate Reservation Request Form has been Placed in Service and prior to the expiration date of such Rebate Reservation, the Purchaser may request disbursement of the Energy Alternatives Rebate that was the subject of the Rebate Reservation by submitting to the State Energy Office at the address set forth in Section 4.2.1 a copy of the Rebate Confirmation and Claim Form that the State Energy Office sent to the Purchaser after assigning a Rebate Reservation Number. The Purchaser must complete the section of the Rebate Confirmation and Claim Form entitled "Rebate Claim Form" together with all documentation required by the Program Documentation Checklist to accompany such Rebate Confirmation and Claim Form. The State Energy Office must receive the Rebate Confirmation and Claim Form and all accompanying documentation prior to the expiration date of the Rebate Reservation specified in the Rebate Confirmation and Claim Form. The State Energy Office will evaluate the Rebate Confirmation and Claim Form and the required accompanying documentation. In performing such evaluation, the State Energy Office may make an inspection of the installed system. If there are only minor modifications to the Rebate Reservation Request or the Qualifying System, as Placed in Service, that are described in the Rebate Confirmation and Claim Form, the State Energy Office will process payment of the Energy Alternatives Rebate within 30 days of receipt of the Rebate Confirmation and Claim Form. The State Energy Office will ordinarily request DEDO to pay the Energy Alternatives Rebate to the Purchaser; however, if the Purchaser so requests in writing, the State Energy Office will request DEDO to pay the Energy Alternatives Rebate to the Retailer. If modifications to the Rebate Reservation Request or the Qualifying System, as Placed in Service, that are described in the Rebate Confirmation and Claim Form are deemed by the State Energy Office to be other than minor, the Rebate Confirmation and Claim Form will be treated as a request for modification of the original Rebate Reservation Request and processed in accordance with Section 4.2.3 and 4.2.4.~~
- 4.4 ~~Maintenance of Balances of Nonresidential Pool and Residential Pool within the Environmental Incentive Fund Available for Energy Alternatives Rebates. When the State Energy Office makes a Rebate Reservation pursuant to Section 4.2.3 hereof, the funds within either the Nonresidential Pool or the Residential Pool (as the case may be) of the Environmental Incentive Fund that have been set aside for Energy Alternatives Rebates shall be reduced by the amount of such Rebate Reservation. Whenever a Rebate Reservation expires in accordance with Section 4.2.3 or Section 4.2.4 hereof without the corresponding Energy Alternatives Rebate's having been disbursed in accordance with Section 4.3 hereof, the funds within either the Nonresidential Pool or the Residential Pool of the Environmental Incentive Fund that have been set aside as available for Energy Alternatives Rebates shall be increased by the amount of such expired undisbursed Rebate Reservation.~~

5 DE Reg. 1529 (01/01/02)

477 Information Technology Training Grant Program Regulation

1.0 Introduction

~~This regulation is promulgated under the authority granted to the Director of the Delaware Economic Development Office ("DEDO") by 29 **Del.C.**, §5005(11) to make regulations for the administration and operation of DEDO. One of the programs administered by DEDO through its Workforce Development Section is the Information Technology Training Grant Program established in 73 **Del.Laws**, Ch. 74, §62(i)(C) (June 28, 2001) (the "Program"). The Program is designed to provide customized information technology training to small and medium sized businesses through grants made by the Workforce Development Section of DEDO. This regulation sets forth the definition of certain terms used in the Program and describes (i) the eligibility requirements for persons desiring to participate in the program, and (ii) other administrative features of the Program.~~

2.0 Definitions

The terms defined in Section 1 hereof shall have the meanings set forth therein.

"Blue Collar Program" means the employment and pre-employment training grant program operated by DEDO under the Delaware Economic Development Training Act, 29 Del. C., Sections 5070 — 7073.

"Information technology training" means pre-employment or employment training that provides meaningful computer-related job skills to trainees.

"Small or medium-sized business" means a corporation, limited liability company, general or limited partnership, business trust, common law trust, proprietorship, unincorporated association or other form of organization conducting a for-profit or not-for-profit enterprise in the State of Delaware and having five hundred (500) or fewer employees.

"Training grant" means a grant of up to One Hundred Thousand Dollars (\$100,000) for the purpose of providing information technology training to employees of a small or medium-sized business.

3.0 Persons Eligible for Training Grants under the Program

Only a small or medium-sized business may apply for a training grant under the Program.

4.0 Program Administration.

4.1 General Principles. DEDO intends to operate the Program as part of its employment and pre-employment training programs operated by its Workforce Development Section under the Blue Collar Program. Accordingly, DEDO intends that the statutory and regulatory provisions of the Blue Collar Program will apply to the Program, with the modifications set forth in this regulation. Persons seeking training grants under the Program should contact the Director of the Workforce Development Section of DEDO regarding possible grants and application material at 99 Kings Highway, Dover, DE 19901, phone (302) 672-6807, facsimile (302) 739-2028. Training grants will be available only if sufficient funds are available for the purpose of making such grants.

4.2 Program Variance from Blue Collar Program.

4.2.1 For purposes of the Program, an "eligible applicant," as defined in 29 **Del.C.** §5070(g) shall be a small or medium-sized business, as defined in Section 1.0 of this regulation.

4.2.2 Employees receiving training under the Program are not limited to entry-level through first-line supervisory positions.

4.2.3 Small or medium-sized businesses are not required to pay Delaware Unemployment Insurance Tax in order to qualify for a training grant, unless other provisions of Delaware law require them to do so.

5 DE Reg. 2145 (5/1/02)

478 Neighborhood Assistance Act Tax Credit Program Regulation

1.0 Introduction

This regulation is promulgated under the authority granted by 30 **Del.C.** §2004 to the Secretary of DHSS, the Director of DEDO, and the TAB to make regulations for the approval or disapproval of Applications from Business Firms for the NAA Credit. The Act, administered by DHSS, DEDO & TAB, is the Neighborhood Assistance Act, 30 **Del.C.** §§2001 — 2007. The Act is designed to encourage both Contributions by Business Firms to Neighborhood Organizations, Community Development Corporations and Community-Based Development Organizations performing Community Service and offering Neighborhood Assistance and the direct operation by Business Firms of Programs for the provision of Job Training, Education, Community Services, Crime Prevention Housing and Economic Development to benefit individuals living in Impoverished Areas.

This regulation sets forth the definition of certain terms used in the Act and describes (i) the eligibility requirements for Business Firms desiring to participate in the program, (ii) the processes used by the Council to provide guidance and recommendations to the Director of DEDO and the TAB on business firms that should receive a tax credit, (iii) how to apply for the tax credit, (iv) how the Council will assist DEDO, DHSS and the TAB.

6 DE Reg. 1368 (4/1/03)

2.0 Definitions.

For purposes of this regulation, initially capitalized terms not otherwise defined in this section 2.0 shall have the meanings set forth in the Act.

For purposes of this regulation, initially capitalized terms not defined by the Act shall have the following definitions:

"Act" means the Neighborhood Assistance Act, 30 **Del.C.** §§2001 — 2007, as amended from time to time.

"Administrator" means the DHSS, DEDO and the TAB, with the guidance of the Council. For purposes of the approval process over Applications, DEDO shall have primary responsibility for administration of the Act.

“Applicant” means a Business Firm that makes an application for approval of an Investment or a Program in accordance with this regulation.

“Application” means an application made by an Applicant on the form prescribed by the Administrator setting forth pertinent information pertaining to (i) the Applicant, (ii) the Investment proposed, including, as appropriate, the qualification of the recipient of a Contribution as a Neighborhood Organization, a Community Development Corporation or Community-Based Development Organization, (iii) the purposes for which such Neighborhood Organization, a Community Development Corporation or Community-Based Development Organization will expend or use a Contribution, (iv) a description of a Program, (v) the amount of cash or in-kind support that will be used in the Program and detailed information concerning the underlying factual basis and valuation methodology that the Applicant used to value goods and services proposed to be furnished in connection with a Program, (vi) the Impoverished Area or Low Income People involved, and (vii) such other information or types of information as the Administrator deems necessary. The Administrator may require submission of additional materials to substantiate information elicited by an Application.

“Contribution” means a contribution of money or of goods and services, valued at their Fair Market Value, to (i) a Neighborhood Organization for use by such organization in providing Community Services or in offering Neighborhood Assistance, or (ii) a Community Development Corporation or Community-Based Development Organization for use by such organization in the planning and implementation of Economic Development projects.

“Council” means the Neighborhood Assistance Act Advisory Council established by 30 **Del.C.** §2004.

“DEDO” means the Delaware Economic Development Office.

“DHSS” means the Department of Health and Social Services.

“Emergency Assistance” means the provision of payments or services for families in order to eliminate or alleviate an emergency condition. An “emergency condition” is defined the loss of the family shelter or the loss of energy supply to the family shelter.

“Fair Market Value” means, with respect to an item of goods or services, the price in a market in which the item of such goods or services is most commonly sold to the public at which such item would change hands between an unrelated willing buyer and an unrelated willing seller, neither being under any compulsion to buy or to sell, and both having reasonable knowledge of relevant facts.

“Impoverished Area” means any clearly defined, economically distressed urban or rural area in the State of Delaware that has been certified as such by DHSS and approved by the TAB. DHSS shall make its certification of an Impoverished Area based on federal census studies and current indices of social and economic conditions. The following areas are hereby certified by DHSS and approved by the TAB as Impoverished Areas: (i) census tracts described in 30 **Del.C.** §2020(1)e., as amended, or in any successor statutes thereto, and (ii) areas designated as ranking “4” or “5” in the document prepared by DHSS in July, 1997 entitled “Community Prioritization in Delaware” and in any updated version of such document based on data gathered by the federal government in the 2000 census and on current indices of social and economic conditions. Additionally, DHSS may certify and TAB may approve as an Impoverished Area any area whose boundaries can be described geographically and that meets one or more of the following criteria: (A) the geographic area has a higher than average percentage of households receiving public assistance; (B) the rate of unemployment in the geographic area is higher than average in the State; (C) the geographic area has a higher than average concentration of residents who are Low Income People; (D) the geographic area has a demonstrated need for assistance in economic development, has significant numbers of vacant or substandard properties or infrastructure problems that may create substandard living conditions or cause the area to be economically distressed; and, (E) the population in the geographic area has special needs to be served by the activities of a Neighborhood Organization, Community Development Corporation or Community-Based Development Organization. DHSS may make the foregoing certification and TAB may approve such certification based on a letter application to DHSS with supporting documentation required by DHSS that is made by an Applicant, or by a Neighborhood Organization, Community Development Corporation or Community-Based Development Organization. If the “Community Prioritization in Delaware” document is updated based on data gathered by the federal government in the 2000 census and on current indices of social and economic conditions, areas designated as ranking “4” or “5” in either version of the document shall constitute Impoverished Areas during the fiscal year of the State in which such update is made. Thereafter, only areas designated as ranking “4” or “5” in such updated version of “Community Prioritization in Delaware” shall constitute Impoverished Areas; provided however, that Applicants whose Applications have been approved in accordance with Section 5.0 of this regulation shall not, as a result of such update, be deprived of any NAA Credit, including any carryforward thereof, based on such Application.

“Investment” means (i) the amount of a Contribution or (ii) the amount of money and the Fair Market Value of goods and services proposed to be made or expended within the taxable year of the Applicant on a Program.

~~“Locally Based” means, with respect to a Community Development Corporation or a Community-Based Development Organization, that such Community Development Corporation or Community-Based Development Organization is organized by residents of and located in one or more of the Impoverished Areas in which they serve.~~

~~“Low Income People” or “Low Income Person” means individuals or an individual with an annual income that is fifty percent (50%) or below the established median income for the State or for any political subdivision thereof for which median income data is available from the United States census.~~

~~“NAA Credit” means the credit described in 30 Del.C. §2005, subject to the limitations of 30 Del.C. §2006 and regulations governing the NAA Credit promulgated by the Delaware Division of Revenue.~~

~~“Program” means the direct provision by an Applicant in an Impoverished Area of (i) Neighborhood Assistance, (ii) Job Training for individuals not employed by the Applicant, (iii) Education for individuals not employed by the Applicant, (iv) Community Services, (v) Crime Prevention, (vi) Housing, or (viii) Economic Development.~~

~~“Proposal” means the description of the relationship between the Business Firm making an Application and the Neighborhood Organization, Community Development Corporation, or Community-Based Development Organization to which the Business Firm will make a Contribution and a description of how the Neighborhood Organization will provide Community Services or Neighborhood Assistance or of how the Community Development Corporation or Community-Based Development Organization will engage in Economic Development.~~

~~“Resident Controlled” means, for purposes of the definition in the Act of the terms “Community Development Corporation” and “Community-Based Development Organization,” an organization that otherwise meets the definition of a “Community Development Corporation” or “Community-Based Development Organization” under the Act, the by-laws or other organizational documents of which require that at least fifty-one percent (51%) of the members of the board of directors, or other governing body of such organization, reside or work in the Impoverished Area served by the organization.~~

~~“TAB” Means the Tax Appeal Board.~~

6-DE-Reg-1368 (4/1/03)

3.0 Program Priorities

- 3.1 ~~Applications received for consideration of an Investment must meet all eligibility requirements under the Act and this regulation, including, but not limited to the purpose of the Program or Proposal with respect the Investment is to be made, the eligibility requirements for the Business Firm making an Application and for the Neighborhood Organization, Community Development Corporation, or Community-Based Development Organization that will receive a Contribution.~~
- 3.2 ~~Applications will be reviewed and ranked on the following factors: (i) financial feasibility of the Program or Proposal, (ii) capacity of the Applicant to carry out a Program or of the Neighborhood Organization, Community Development Corporation, or Community-Based Development Organization that will receive a Contribution to implement the activities described in the Proposal; (iii) specific description of goals to be achieved and the relationship of such goals to the priorities established by the Act; (iv) proposed methods by which the success of the Program or Proposal can be measured; (v) specific description of the impact of the Program or Proposal on an Impoverished Area; and, (vi) other information requested in the Application form prescribed by the Administrator and any supplementary information requested by the Administrator.~~

6-DE-Reg-1368 (4/1/03)

4.0 Making Application for NAA Credits

- 4.1 ~~Applications may be submitted at any time directly to: Administrator of the Neighborhood Assistance Act, Delaware Economic Development Office, 99 Kings Highway, Dover Delaware 19901. The Administrator will review the Application for completeness. If the Application is incomplete, the Administrator will return it to the Applicant and shall specify in what regard it is incomplete. The Administrator may also request additional information or other documentation in support of an Application.~~

6-DE-Reg-1368 (4/1/03)

5.0 Procedures for Recommendation of Approval or Disapproval of Application

- 5.1 ~~Initial Processing and Distribution of Complete Applications. When the Administrator finds that an Application is complete, it shall submit copies of the Application to DEDO, the members of the TAB and the members of the Council.~~

5.2 Council Review of Application:

- 5.2.1 ~~The Council shall review Applications transmitted to it by the Administrator in accordance with Section 5.1 hereof at its public meetings held in compliance with 29 Del.C. §10004. In addition to posting its agenda publicly, as required by 29 Del.C. §10004(e), the Council shall mail a written notice of such meetings to all Applicants whose Applications will be reviewed by the Council at such meetings at least seven days in advance of such meetings.~~
- 5.2.2 ~~At its meeting, the Council shall review the completed Applications based on eligibility criteria set forth in the Act and this regulation.~~
- 5.2.3 ~~The Council shall prepare a written recommendation to the Director of DEDO and the members of the TAB on all Applications reviewed at its meetings. The Council's recommendation shall include a recommendation for the approval or disapproval of an Application and a recommended amount of the Investment to be approved. The Council shall send its written recommendation to the Director of DEDO, the members of the TAB and the Applicant.~~

5.3 Hearing on Application

- 5.3.1 ~~In General. Hearings on all Applications shall be conducted jointly by (i) the Director of DEDO, or an employee of DEDO designated by the Director of DEDO, and (ii) the members of the TAB to consider Applications based on the criteria for eligibility set forth in the Act and in this regulation and on the recommendation of the Council. If the Director of DEDO and the members of the TAB so agree, the hearing may be conducted by an employee of DEDO designated as a hearing officer by both the Director of DEDO and the members of the TAB.~~
- 5.3.2 ~~Scheduling of Hearings. The Director of DEDO and the members of the TAB, or the hearing officer designated by them in accordance with section 5.3.1, shall schedule a hearing on an Application after receiving the written recommendation of the Council described in subsection 5.2.3 hereof and shall notify the Applicant of the hearing in compliance with the provisions of 29 Del.C. §10122. The recommendation of the Council shall become part of the record in the hearing, and the Applicant will be asked to stipulate to the inclusion of such recommendation in the record of the hearing; provided, however, that the Applicant shall have the opportunity to introduce evidence and testimony at the hearing to supplement or contradict the recommendation.~~
- 5.3.3 ~~Conduct of Hearing; Burden of Proof. The hearing shall be conducted on the record in accordance with the procedures for agency case decisions set forth in 29 Del.C. §§10121 — 10129. The burden of proof shall always be on the Applicant.~~
- 5.3.4 ~~Final Order; Proposed Order. The Director of DEDO and the members of the TAB shall decide whether to approve or disapprove an Application, with or without modification of the Investment or Program, and on the amount of the approved Investment or Program based on the entire record of the case and shall issue a final order in accordance with 29 Del.C. §10128. If a designated hearing officer conducts the hearing, such hearing officer shall comply with the requirements of 29 Del.C. §10126 in preparing a proposed order for the consideration of the Director of DEDO and the members of the TAB, a copy of which shall be such section.~~

6 DE Reg. 1368 (4/1/03)

20 DE Reg. 364 (11/01/16) (Prop.)