

[6450-01-P]



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**DEPARTMENT OF ENERGY**

**10 CFR Part 455**

**[DOE-HQ-2025-0022]**

**RIN 1930-AA02**

**Rescinding the Grant Programs for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions Regulations**

**AGENCY:** Office of the State and Community Energy Programs, Department of Energy (DOE).

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** The U.S. Department of Energy is proposing to rescind the Grant Programs for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions regulations. The Department seeks comments on any reason to rescind or not rescind these regulations.

**DATES:** *Comments:* Written comments, data, and information must be received no later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) under docket number DOE-HQ-2025-0022. Follow the instructions for submitting comments. The docket for this notice of proposed rulemaking, which includes Federal Register notices, comments, and other supporting documents and materials, is available for review at [www.regulations.gov](http://www.regulations.gov). All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The docket web page can be found at [www.regulations.gov/docket/DOE-HQ-2025-0022](http://www.regulations.gov/docket/DOE-HQ-2025-0022). The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at [www.regulations.gov](http://www.regulations.gov), under the docket number.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC-1, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5281. Email: [DOEGeneralCounsel@hq.doe.gov](mailto:DOEGeneralCounsel@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:**

## **I. General Discussion**

The U.S. Department of Energy (DOE or Department) is proposing to rescind the regulations at 10 CFR part 455, Grant Programs for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions.

Title III of the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6371 *et seq.*, authorized DOE's prior Institutional Conservation Program (ICP) to adopt the regulations at issue in this notice. The ICP provided grants to various institutions to fund detailed energy audits, called technical assistance programs, and energy conservation measures. 58 FR 9424, 9424 (Feb. 19, 1993). In 1996, DOE's State Energy Program was established by consolidating two existing programs, the ICP and the State Energy Conservation Program (SECP), to provide formula grants going forward. In July of that same year, DOE amended the regulations for SECP to support the newly formulated SEP. 61 FR 35890 (July 8, 1996). While DOE did not eliminate ICP's regulations at 10 CFR part 455 during that rulemaking, DOE did direct states wishing to undertake activities previously administered through ICP to apply to SEP using the newly amended regulations at 10 CFR part 420. The final rule explained that ICP's regulations, 10 CFR part 455, would not apply to SEP issued grants but that States were "free to adopt any of the requirements in those regulations to cover ICP-type activities under SEP." 61 FR 35890, 35890.

Now, many decades later, ICP's regulations remain in place even though it is unclear if those regulations are still in use. DOE is now proposing to rescind the regulations at 10 CFR part 455 and seeks comments on any reason to rescind or not rescind these regulations. Specifically, DOE seeks comments on the relevancy of 10 CFR part 455 and whether SEP's regulations, 10 CFR part 420, are sufficient for any related future activity.

## **II. Procedural Issues and Regulatory Review**

### *A. Review Under Executive Order 12866*

Executive Order (E.O.) 12866, "Regulatory Planning and Review," requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits;

(4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. For the reasons stated in the preamble, this proposed regulatory action is consistent with these principles.

#### *B. Review Under the Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website ([www.energy.gov/gc/office-general-counsel](http://www.energy.gov/gc/office-general-counsel)).

DOE reviewed this proposed rescission under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal eliminates unused regulations. Therefore, DOE initially concludes that the impacts of the proposed rescission would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

#### *C. Review Under the Paperwork Reduction Act*

This proposed rescission imposes no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 et seq.).

#### *D. Review Under the National Environmental Policy Act of 1969*

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (NEPA) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed

rule and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

*E. Review Under Executive Order 13132*

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposed rescission and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, no further action is required by E.O. 13132.

*F. Review Under Executive Order 12988*

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable

standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rescission meets the relevant standards of E.O. 12988.

*G. Review Under the Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at [www.energy.gov/sites/prod/files/gcprod/documents/umra\\_97.pdf](http://www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf).

DOE examined this proposed rescission according to UMRA and its statement of policy and determined that the proposed rescission does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of \$100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

*H. Review Under the Treasury and General Government Appropriations Act, 1999*

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed rescission would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

*I. Review Under Executive Order 12630*

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this proposed rescission would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

*J. Review Under the Treasury and General Government Appropriations Act, 2001*

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at: <https://www.energy.gov/cio/department-energy-information-quality-guidelines>. DOE has reviewed this proposed rescission under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

*K. Review Under Executive Order 13211*

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A “significant energy action” is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively determined that this rule would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects. DOE may prepare such a statement for the final rule, and seeks all comments.

*L. Review Under Additional Executive Orders and Presidential Memoranda*

DOE has examined this proposed rescission and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rescission, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

**IV. Approval of the Office of the Secretary**

The Secretary of Energy has approved publication of this notice of proposed rulemaking; request for comment.

**List of Subjects in 10 CFR Part 455**

Administrative practice and procedure, Buildings and facilities, Community facilities, Energy conservation, Grant programs-energy, Health facilities, Hospitals, Reporting and recordkeeping requirements, Schools, Solar energy, and Technical assistance.

**Signing Authority**

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on May 9, 2025

Jennifer Hartzell,  
Alternate Federal Register Liaison Officer,  
U.S. Department of Energy.

PART 455—[REMOVED]

For the reasons set forth in the preamble, under the authority of 42 U.S.C. 6371 *et seq.*, and 42 U.S.C. 7101 *et seq.*, DOE is proposing to remove part 455 of subchapter D of chapter II of title 10 of the Code of Federal Regulations.

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