

Title 14
INDEPENDENT AGENCIES
Subtitle 26 MARYLAND ENERGY ADMINISTRATION

14.26.04 Clean Energy Grant Program

Authority: State Government Article, §9-20B-01 et seq., Annotated Code of Maryland

Notice of Proposed Action

[□]

The Maryland Energy Administration proposes to:

(1) Repeal existing Regulations **.00— .07** under **COMAR 14.26.04 Solar Grant Program** and existing **Regulations .00— .11** under **COMAR 14.26.05 Geothermal Heat Pump Grant Program**; and

(2) Adopt new Regulations **.00— .13** under **COMAR 14.26.04 Clean Energy Grant Program**.

Statement of Purpose

The purpose of this action is to establish and implement the Clean Energy Grant Program, a comprehensive grant program that is a part of the Administration's Strategic Energy Investment Program. The program offers to reimburse homeowners, businesses, State and local governments, and nonprofit organizations located in Maryland for all or a portion of the cost of purchasing, leasing, and installing eligible clean energy technologies or systems that convert renewable energy resources into electric energy, or thermal energy (i.e., heating, cooling, steam, or hot water) or use renewable fuels (i.e., solid, liquid, or gaseous fuels from renewable resources) to meet the energy demands of Maryland's homes and buildings.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Frederick H. Hoover, Director, Clean Energy, Maryland Energy Administration, 60 West Street, Ste. 300 Annapolis, MD 21401, or call 410-260-7655, or email to fhoover@energy.state.md.us, or fax to 410-974-2250. Comments will be accepted through November 4, 2013. A public hearing has not been scheduled.

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Authority: State Government Article, § 9-20B-01 et seq., Annotated Code of Maryland

.01 Purpose and Scope.

This chapter establishes and implements the Clean Energy Grant Program, a comprehensive grant program that is part of the Administration's Strategic Energy Investment Program authorized under State Government Article, §9-20B-01 et seq., Annotated Code of Maryland. The Clean Energy Grant Program replaces regulations issued pursuant to State Government Article, §§9-2007 and 9-2008, Annotated Code of Maryland, for solar and geothermal grants. The program offers to reimburse homeowners, business owners, State and local governments, and nonprofit organizations for all or a portion of the cost of purchasing, leasing, and installing eligible and certain commercially viable, but nascent, clean energy systems located in Maryland that convert renewable energy resources into electric energy, thermal energy (i.e., heating, cooling, steam, or hot water), or use renewable fuels (i.e., solid, liquid, or gaseous fuels from renewable resources) to meet the energy demands of Maryland's homes and buildings.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Administration" means Maryland Energy Administration.

(2) "Applicant" means a homeowner, business, nonprofit organization, or State or local government that has applied directly or through an installation contractor to the Administration for a Clean Energy Grant.

(3) Clean Energy Conversion Systems.

(a) "Clean energy conversion system" means a commercially available technology or system included in a notice of grant availability issued pursuant to Regulation .09 of this chapter that converts renewable energy resources into electric or thermal energy for use in a home or building.

(b) "Clean energy conversion systems" include:

(i) Solar electric photovoltaics technologies that convert sunshine into electricity;

(ii) Solar thermal technologies that convert sunshine into hot water or steam;

(iii) Solar thermal generation technologies that convert sunshine into electricity;

(iv) Wind technologies that convert wind into electricity;

(v) Geothermal heating and cooling technologies that convert thermal energy stored in the earth into heating, cooling, or hot water;

(vi) Bioenergy technologies that convert biomass and/or solid wastes into electricity, hot water or steam;

(vii) Energy systems that utilize biofuels, synthetic gas, or similar renewable resources to provide heat or electricity to eligible buildings or homes; and

(viii) Other technologies that convert other renewable or clean sources of energy that the Administration determines are affordable and reliable means of serving a local load for a single-family home, building, or residential unit of a building.

(4) "Clean Energy Grant" means an amount of money determined by the Administration pursuant to Regulation .08 of this chapter and offered to assist a homeowner, business, nonprofit organization, or State or local government to cover all or a portion of the cost of a clean energy conversion system.

(5) "Commercial Clean Energy Grant" means a Clean Energy Grant issued for a clean energy conversion system installed on a:

(a) Nonresidential property with a commercial, industrial, or government use;

(b) Mixed used facility where the clean energy conversion system is installed to cover the load of one or more commercial units or the load of at least one residential unit and one commercial unit; or

(c) Multifamily property where the clean energy conversion system is owned or leased by the owner of the multifamily property and installed to cover the load of two or more residential units.

(6) "Fund" means the Strategic Energy Investment Fund and the portfolio of programs administered by the Administration under the provisions of State Government Article, §9-20B-05, Annotated Code of Maryland.

(7) "Homeowner" means an individual or individuals that hold legal or equitable title to a residential property located in the State.

(8) "Innovative clean energy conversion system" means a technology or system not included in a notice of grant availability issued pursuant to Regulation .09 of this chapter that converts renewable energy resources into electric or thermal energy.

(9) "Installation contractor" means a business under contract with a homeowner, nonprofit organization, State or local government, or another business for the development, installation, or financing of a purchased or leased clean energy conversion system.

(10) "Local government" means a political subdivision of the State.

(11) "Mixed use facility" means a building containing one or more residential units and one or more commercial units.

(12) "Nonprofit organization" means a legal entity which is exempt from taxation under the applicable provisions of the Internal Revenue Code.

(13) "Nonresidential property" means property that has a primary purpose other than serving as a residence.

(14) "Primary residence" means an applicant's principal place of habitation.

(15) "Project" means a clean energy conversion system or assemblage of clean energy conversion systems and related systems and installation components that operate in a coordinated manner, which may or may not be connected to a power distribution grid.

(16) "Project configuration" means the manner in which a clean energy conversion system is designed, sized, configured, and installed to serve eligible buildings and facilities.

(17) "Residential Clean Energy Grant" means a Clean Energy Grant issued for a clean energy conversion system installed on a:

(a) Residential property where the clean energy conversion system is installed to cover the load of only the residential property on which the clean energy conversion system is installed; or

(b) Multifamily property or mixed use facility where the clean energy conversion system is installed to cover the load of only one residential unit of the multifamily property or mixed use facility on which the clean energy conversion system is installed.

(18) Residential Property.

(a) "Residential property" means property, including a single-family home and an individual unit of a multifamily property or mixed use facility, that has the purpose of serving as a primary residence.

(b) "Residential property" includes a property with a home office.

(19) "Residential unit" means an individual unit of a mixed used facility or multifamily property that has the purpose of serving as a primary residence.

.03 Legal Provisions Governing Clean Energy Grants.

A. To the extent that the Clean Energy Grant Program is funded with proceeds derived by the sale of allowances under the Regional Greenhouse Gas Initiative, the provisions and limitations applicable to the Strategic Energy Investment Program and the Fund, as set forth in State Government Article, §9-20B-05, Annotated Code of Maryland, apply to a Clean Energy Grant issued under this chapter.

B. To the extent that the Clean Energy Grant Program is funded by additional source of funding from other government or private sources, additional conditions may be imposed by the funding source and affect the terms and conditions of a Clean Energy Grant.

C. All grants are awarded on a discretionary basis and shall be awarded based on the Administration's judgment of an applicant's eligibility, the merits of the proposal, funding availability, and the State's policy goals.

.04 Grant Eligibility.

A. Consistent with the substantive and procedural requirements of this chapter, the Administration shall issue a Residential Clean Energy Grant or Commercial Clean Energy Grant to an applicant for a project if the Administration determines:

(1) The applicant is a party eligible to receive a Clean Energy Grant pursuant to Regulation .05 of this chapter;

(2) The installed system is located on an eligible property pursuant to Regulation .06 of this chapter; and

(3) The installed system is an eligible clean energy conversion system pursuant to Regulation .07 of this chapter.

B. An applicant or project may be eligible for a Residential Clean Energy Grant or a Commercial Clean Energy Grant, but not both a Residential Clean Energy Grant and a Commercial Clean Energy Grant.

C. A project shall receive no more than one grant.

D. The Administration shall consider multiple projects on contiguous parcels of property one project for consideration of eligibility for a Clean Energy Grant under this chapter.

.05 Eligible Parties.

A. A party is eligible to receive a Clean Energy Grant if the party is:

(1) An owner of a residential property that is:

(a) Located in the State; and

(b) The primary residence of the owner of the residential property at the time of application;

(2) A business that is:

- (a) Incorporated or registered to do business in the State;
 - (b) In good standing with the Maryland State Department of Assessments and Taxation;
 - (3) A nonprofit organization that is incorporated or registered to do business in the State; or
 - (4) The State, a local government, or a unit of a local government.
- B. An installation contractor is not eligible to receive a Clean Energy Grant but may apply for a Clean Energy Grant on behalf of a party eligible to receive a Clean Energy Grant under this regulation.

.06 Eligible Properties.

- A. To be eligible for a Clean Energy Grant, a clean energy conversion system must be installed on:
- (1) A single-family home that serves as the primary residence of the applicant;
 - (2) A multifamily property or mixed use facility that contains a residential unit that serves as the primary residence of the applicant; or
 - (3) A commercial property, industrial property, government property, multifamily building, or mixed use facility that is:
 - (a) Owned by a Maryland resident or business;
 - (b) Owned or leased by the State or a local government; or
 - (c) Owned by a nonprofit organization.
- B. Clean energy conversion systems installed on the following properties are ineligible for Clean Energy Grants:
- (1) A property not located in the State;
 - (2) A property of any type whose ownership share is by a trust or estate except properties that are the primary residence of a grantor of a revocable trust who has the right to revoke the trust;
 - (3) A second home or recreational property;
 - (4) A property leased by the applicant, unless a homeowner is an eligible co-applicant or the property is leased by the State or a local government; and
 - (5) A property primarily used or intended to be used for the generation of electricity or heat in a non-net metered application for sale into wholesale energy markets.

.07 Eligible Clean Energy Conversion Systems.

- A. To be eligible for a Clean Energy Grant, a clean energy conversion system must:
- (1) Be installed in a standalone project that has not previously received a Clean Energy Grant;
 - (2) Meet a minimum size of 1 kW(e);
 - (3) Meet all applicable safety and technical standards; and
 - (4) Where required, be approved or certified by a recognized national testing laboratory.
- B. The following clean energy conversion systems are ineligible for a Clean Energy Grant:
- (1) A clean energy conversion system not in compliance with State and Federal laws and local laws and ordinances;
 - (2) A clean energy conversion system installed by an installation contractor that is not:
 - (a) In good standing with the Maryland State Department of Assessments and Taxation; and
 - (b) Incorporated or registered to do business in the State;
 - (3) A solar photovoltaic system:
 - (a) Installed on a residential property but leased or otherwise not owned by the owner or occupant of the residential property;
 - (b) Installed on or after July 1, 2014 by an installation contractor that does not maintain at least one staff member with a North American Board of Certified Energy Practitioners installation certification; or
 - (c) Installed by an installation contractor with at least 50 employees that does not maintain at least one staff member with a North American Board of Certified Energy Practitioners installation certification for every 25 non-administrative employees, except if the installation contractor has been incorporated or registered to do business in Maryland for less than 12 months prior to the submission of an application for a grant; and
 - (4) A solar photovoltaic or thermal system that does not meet applicable national safety or performance standards for the type of equipment described in the standards of a nationally recognized testing laboratory.
- C. The Administration shall exempt an installation contractor unable to comply with a North American Board of Certified Energy Practitioners installation certification requirement set forth in § B(3) of this regulation due to the departure of a key employee from compliance with the certification requirement for a period of 6 months from the departure of the key employee in order to allow for replacement of the lost certification.

.08 Grant Amounts.

In conjunction with the publication of a notice of grant availability issued pursuant to Regulation .09 of this chapter, the Administration may vary the criteria and dollar value of available Clean Energy Grants for different categories of clean energy conversion systems based on:

- A. The type of application, including whether the application is for a Residential Clean Energy Grant or a Commercial Clean Energy Grant;
- B. The fiscal year;

- C. The type of clean energy conversion system;
- D. The type of property;
- E. The category of applicant;
- F. Project configuration;
- G. Project ownership;
- H. Commercial availability;
- I. The ability of the Administration to maximize the use of and attain optimal benefit from available funds; and
- J. Any other factors deemed appropriate by the Administration.

.09 Notice of Grant Availability.

A. The Administration shall issue a notice of grant availability which shall set forth the amount of funding determined pursuant to Regulation .08 of this chapter for each category of Clean Energy Grant offered by the Administration in a grant cycle.

B. The Administration shall set a grant cycle at least once prior to the beginning of each fiscal year or as soon as practicable thereafter, based on available funding and annual funding priorities.

C. The Administration shall publish a notice of grant availability issued pursuant to § A of this regulation in the eMaryland Market Place, the Maryland Register, and on the Administration webpage.

.10 Grant Application Process.

A. For Residential Clean Energy Grant application:

(1) The Administration shall publish an application that sets forth an application process determined appropriate by the Administration.

(2) Each application package shall contain supporting documentation including, but not limited to:

(a) For Maryland residents applying for grants, proof of Maryland residency in the form of a State-issued driver's license or other form of proof deemed appropriate by the Administration;

(b) A description of the type of clean energy conversion system installed or being installed;

(c) A copy of the final sales invoice from the installing contractor, developer or lessor indicating that the clean energy conversion system has been paid in full, otherwise known as a "zero balance invoice";

(d) Copies of all issued inspection documents, permit documents, or both, as provided by State, federal and local authorities having jurisdiction; and

(e) A photograph of the installed clean energy conversion system;

(3) If a solar electric or solar thermal system is roof-mounted, the photograph must clearly demonstrate where on the roof the system has been installed; and

(4) A geothermal heating and cooling system photograph must include the ground-source heat pump and area where the wells are located.

B. For a Commercial Clean Energy Grant application:

(1) The Administration shall publish an application that sets forth an application process determined appropriate by the Administration;

(2) The Administration may include in the application a requirement that an applicant provide information specified in § A of this regulation; and

(3) The Administration may include in the application a requirement for an applicant to provide a copy of a product specification sheet, a copy of the final sales invoice, including the actual installed price paid and an itemized list of:

(a) Components;

(b) Labor;

(c) Permit fees;

(d) Method of payment;

(e) The system warranty agreement;

(f) A copy of verification of completion of installation signed by the applicant and installation contractor; and

(g) A statement that the applicant and the installation contractor have complied with all State laws and local ordinances, and other legally binding requirements.

C. The Administration may bifurcate an application process as necessary into more than one step.

.11 Grant Approval Process.

A. For applications for recognized, clean energy conversion systems, the Administration shall:

(1) Determine whether the application is complete and all supporting documentation pertaining to the project has been provided by the Applicant; and

(2) Determine whether the applicant is eligible to receive a Residential Clean Energy Grant or Commercial Clean Energy Grant pursuant to the:

(a) Requirements of Regulation .04 of this chapter; and

(b) Notice of grant availability published pursuant to Regulation .09 of this chapter.

B. Evaluating Innovative Clean Energy Conversion Systems.

(1) *The Administration may consider applications for grants for innovative clean energy conversion systems on a case-by-case basis.*

(2) *If the Administration determines that a proposed innovative clean energy system is eligible for a grant award, the Administration may determine the amount of the grant by considering such factors as installed capacity, energy production, the need to meet the State's Renewable Portfolio Standard, and any other factors the Administration deems appropriate.*

(3) *Written Determination.*

(a) *If the Administration determines that a proposal for an innovative clean energy conversion system is eligible for an award in whole or in part, it shall make its determination in writing.*

(b) *If the Administration determines that a proposal for an innovative clean energy conversion system is ineligible for an award in whole or in part, it shall make its determination in writing and set forth a summary of the factors upon which its determination was made.*

(4) *The Administration may specify categories of innovative clean energy conversion systems by publishing notice of its determination in the Maryland Register and on the Administration webpage.*

C. *If it approves an application, the Administration shall process the grant for payment in accordance with applicable accounting and payment requirements.*

D. *Administrative Reconsideration.*

(1) *An applicant that has been denied a Clean Energy Grant in whole or in part may request reconsideration of the Administration within 15 days of the date of the written correspondence notifying the applicant of the disapproval of the application.*

(2) *The Administration may alter its initial determination based on new information or change of circumstances that was not known and could not have reasonably been known at the time the application was provided to the Administration.*

(3) *The applicant shall provide new information or change of circumstances that was not known and could not have reasonably been known when the application was submitted to the Administration.*

(4) *The Administration may request additional documentation or other proof, including technical specifications or other documentation to assist it in making its determination on reconsideration.*

(5) *The Administration may require the applicant to amend its application to meet the Administration's requirements.*

(6) *The Administration may consider the information provided by the applicant and any other information it determines is relevant to the determination of eligibility in making its final decision.*

(7) *The Administration shall notify the applicant of its final decision in writing.*

.12 Applicant Responsibilities.

A. *Grant applicants and recipients shall provide in a timely manner all information the Administration deems necessary to process and evaluate the application, including information as to the performance of the clean energy conversion system.*

B. *Applicants and recipients may not knowingly make or cause to be made any false statement or report in any document required to be furnished to the Administration for the purpose of influencing any action by the Administration on any application or for the purpose of influencing any action of the Administration affecting any grant already provided.*

C. *Applicants and recipients shall allow Administration representatives direct access to clean energy conversion systems for which the applicants are requesting or have received Clean Energy Grants for the purposes of verifying all claims and representations.*

D. *Failure to comply with § B of this regulation is subject to penalties and fines as set forth in State Government Article, § 9-20B-11, Annotated Code of Maryland.*

.13 Program Administration.

The Administration may suspend the Clean Energy Grant Program in the event of a deficiency of remaining funds allocated to the Clean Energy Grant Program.

ABIGAIL ROSS HOPPER
Director
Maryland Energy Administration