

**TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE  
CHAPTER 80. OKLAHOMA ENERGY PROGRAM**

**SUBCHAPTER 1. INSTITUTIONAL CONSERVATION PROGRAMS [REVOKED]**

**150:80-1-1. Purpose [REVOKED]**

~~The purpose of the Institutional Conservation Program is to reduce energy use and energy costs and to promote energy conservation and energy efficiency in public and private non-profit institutions. The Institutional Conservation Program is to establish cost-shared energy conservation programs to fund technical assistance services in public and private non-profit schools, hospitals, and buildings owned by units of local governments and public care institutions and to fund the purchase and installation of energy conservation measures in these institutions.~~

**150:80-1-2. Authority [REVOKED]**

~~(a) This program is authorized under Title III of the Energy Policy and Conservation Act as amended at 42 U.S.C. Sections 6371 et seq. This program is subject to Department of Energy Assistance Regulations at 10 C.F.R. Part 600 which are cross referenced in 10 C.F.R. Part 455. Those statutes and regulations are hereby annexed.~~

~~(b) The legal authority to implement this program is vested in the Oklahoma Department of Commerce pursuant to 74 O.S. 1991, Sections 5003.6, 5017, 5017.1 and 5032.~~

**150:80-1-3. Scope [REVOKED]**

~~The Institutional Conservation Program ("ICP") provides financial and technical assistance to eligible entities to reduce energy use and costs in institutional buildings. The program offers a cost shared energy conservation grant program to fund detailed energy audits, called technical assistance programs ("TAs") and to fund the purchase and installation of energy conservation measures ("ECMs"). The program is to assist interested parties in improving energy efficiency, reducing energy costs, and leveraging available resources.~~

**150:80-1-4. Definitions [REVOKED]**

~~The following words or terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:~~

~~**"Building"** means any structure, including a group of closely situated structural units that are centrally metered or served by a central utility plant, or an eligible portion thereof, the construction of which was completed on or before~~

May 1, 1989, which includes a heating or cooling system, or both.

**"Complex"** means a closely situated group of buildings on a contiguous site such as a school or college campus or multi building hospital.

**"Contractors Implementation Manual"** means the book delivered with the grant award to successful applicants.

**"Coordinating agency"** means a State or public or nonprofit organization legally constituted within a State which provides either administrative control or services for a group of institutions within a State and which acts on behalf of such institutions with respect to their participation in the program.

**"Department"** means the Oklahoma Department of Commerce.

**"DOE"** means the Department of Energy.

**"Energy audit"** means a determination of the energy consumption characteristics of a building which:

- (A) identifies the type, size, and rate of energy consumption of such buildings and the major energy-using systems of such buildings;
- (B) determines appropriate energy conservation maintenance and operating procedures;
- (C) indicates the need, if any, for the acquisition and installation of energy conservation measures; and,
- (D) if paid for with financial assistance funds under the ICP, complies with 10 C.F.R. 450.43.

**"Energy conservation maintenance and operating procedures"** means modifications in the maintenance and operations of a building and any installation therein which are designed to reduce the energy consumption in such building and which require no significant expenditure of funds, including, but not limited to:

- (A) effective operation and maintenance of ventilation systems and control of infiltration conditions;
- (B) changes in the operation and maintenance of heating and cooling systems;
- (C) changes in the operation and maintenance of lighting systems;
- (D) changes in the operation and maintenance of water systems;
- (E) changes in the maintenance and operating procedures of the building's mechanical systems; and,
- (F) such other actions relating to operation and maintenance procedures as the State may determine useful or necessary. In general, energy conservation maintenance and operating procedures involve cleaning, repairing or adjusting existing equipment rather than acquiring new equipment.

~~"Energy conservation measures" means an installation or modification of an installation in a building which is primarily intended to maintain (in the case of load management systems) or reduce energy consumption and reduce energy costs, or allow the use of an alternative energy source.~~

~~"Grant program cycle" means period of time specified by DOE which relates to the fiscal year or years for which monies are appropriated for grants under 10 C.F.R. Part 455 during which one complete cycle of DOE grant activity occurs including fund allocations to the States; applications receipt, review, approval, or disapproval; and award of grants by DOE but which does not include the grantee's performance period.~~

~~"Grantee" means the entity or organization named in the Notice of Financial Assistance Award as the recipient of the grant.~~

~~"Hospital" means a public or nonprofit institution which is a general hospital, tuberculosis hospital, or any other type of hospital other than a hospital furnishing primarily domiciliary care and which is duly authorized to provide hospital services under the laws of the State in which it is situated.~~

~~"Hospital facilities" means building housing a hospital and related facilities including laboratories, laundries, outpatient departments, nurses' residence and training facilities, and central service facilities operated in connection with a hospital. It also includes buildings containing educational or training facilities for health profession personnel operated as an integral part of a hospital.~~

~~"Non-federal funds" means financing sources obtained or arranged for by a State as a result of the State program(s) pursuant to 10 C.F.R. 455.20(j), to be used to pay for energy conservation measures for institutions eligible under this section, and includes petroleum violation escrow funds except for those funds required to be treated as if they were federal funds by statute, court order, or settlement agreement.~~

~~"Program assistance" means a program or activity managed or performed by the State and designed to provide support to eligible institutions to help ensure the effectiveness of energy conservation programs carried out consistent with this part.~~

~~"PVE Funds" means Petroleum Violation Escrow funds.~~

~~"Public care institutions" means a public or nonprofit institution which owns (1) a facility or long-term care, rehabilitation facility, or public health center, as described in section 1824 of the Public Health Services Act (42 U.S.C. Section 300a-3); or (2) a residential child care center which is an institution, other than a foster home, operated by a public or nonprofit institution. It is primarily intended to provide full-time residential care, with an average length of stay of at least 30 days, for at least 10 minor persons who are in the care~~

~~of such institutions as a result of a finding of abandonment or neglect or of being persons in need of treatment or supervision.~~

~~"Public or nonprofit institution" means an Institution owned or operated by a State, a political subdivision of a State, or an agency or instrumentality or either, or a school or hospital which is, or would be exempt from income tax under the Internal Revenue Code section 501(c)(3) or 501(c)(4) of Title 26 of the United States Code.~~

~~"School" means a public or nonprofit institution which:~~  
~~(A) provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis;~~  
~~(B) provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis; and,~~  
~~(C) provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation; or~~  
~~(D) is a local educational agency.~~

~~"School facilities" means buildings housing classrooms, laboratories, dormitories, administrative facilities, athletic facilities, or related facilities operated in connection with a school.~~

~~"State Plan" means the annual document under which the Institutional Conservation Program is implemented by the State in accordance with federal law.~~

~~"Technical assistance" means:~~  
~~(A) the conduct of specialized studies to identify and specify energy savings or energy costs savings that are likely to be realized as a result of the modification of maintenance and operating procedures in a building, the acquisition and installation of one or more specified energy conservation measures in a building, or both and~~  
~~(B) the planning or administration of such specialized studies.~~

~~"Unit of local government" means the government of a county, municipality, or township which is a unit of general purpose government below the State level.~~

#### **150:80-1-5. Fund distribution [REVOKED]**

~~(a) All program funds will be distributed to eligible applicants in accordance with the State Plan. The funds distribution formula expressed in the State Plan will be based on Federal program requirements and appropriate State program requirements. The program funds are competitive and shall be awarded to eligible applicants through an application process developed annually by the Department.~~

~~(b) The State Plan will specify program criteria and requirements which establish a cost-shared grant program to fund Technical Assistance and Energy Conservation Measures in eligible institutions.~~

~~(c) The State Plan will specify amount of funds to be allocated for each funding category based upon annual allocation of funds authorized by DOE.~~

~~(d) The State Plan will specify grant maximums for each funding category based upon annual allocation of funds received from DOE. Grant maximums will apply to all applications submitted in the program year cycle.~~

~~(e) The Department reserves the right within its discretionary authority to adjust funding amounts to less than that which was originally proposed by an eligible applicant based on the most efficient and equitable utilization of the funds.~~

~~(f) The Department occasionally receives Petroleum Violation Escrow (PVE) funds to supplement the Institutional Conservation Program. These funds are to be treated as federal appropriated funds, unless otherwise stated in the State Plan.~~

~~(g) The Department is authorized to establish cost-shared energy conservation grant programs to fund Technical Assistance (TAs) in public and private non-profit schools, hospitals, buildings owned by units of local government and public care institutions and to fund the purchase and installation of Energy Conservation Measures (ECMs) in schools and hospitals.~~

#### **150:80-1-6. Application process [REVOKED]**

~~(a) For purposes of selecting grantees, eligible entities will be required to submit an application for financial assistance in a form prescribed by the Department. All applications will be required to contain sufficient information and documentation that allows the Department to independently review and rate each project. It shall be the responsibility of the applicant to comply with terms and format described in the application packet.~~

~~(b) The Department shall make available upon request by potential applicant current and appropriate application forms and guidelines. The guidelines will include, but not be limited to submission dates and time frames, threshold criteria, eligible activities, work program requirements, budget information, specific data requirements, and other pertinent instructions to assist the applicant complete the application.~~

~~(c) The Department will establish deadlines for application submission annually. Eligible entities will be provided a Notice of Available Funds by direct mailing and by publication in the Oklahoma Register.~~

#### **150:80-1-7. Selection [REVOKED]**

~~(a) For purpose of selecting projects eligible for funding, the Department will subject all proposals to specific minimum threshold requirements and selection factors. Threshold requirements and selection factors shall be set out annually in the State Plan, the application guidelines, and in the application packet prepared by the Department.~~

~~(b) Threshold requirements shall include as a minimum, the following:~~

~~(1) Applicant for financial assistance must meet general requirements of being a school, hospital, or building owned by a Unit of Local Government or Public Care Institution;~~

~~(2) Applicant must meet specific cost-shared requirements of the program;~~

~~(3) Applicant must have submitted a completed application in accordance with program guidelines;~~

~~(4) Applicant must have documented energy savings that meet specific requirements of the State Plan.~~

~~(c) Incomplete or inappropriately completed applications shall be returned to applicant without further consideration.~~

~~Applications are to provide sufficient information and documentation that allows reviewer the opportunity to draw empirical conclusions on quality of energy savings or energy conservation potential based on an energy audit or its equivalent.~~

~~(1) Applications will be selected and ranked on a building by building basis or measure by measure basis; type of energy resource saved; quality of technical assistance report; and other factors determined by the Department, such as the greatest degree to which funding assistance would be utilized to directly decrease use of non-renewable fuel sources. Preference points will be provided to applications that have completed an energy audit or its equivalent without use of federal funds.~~

~~(2) The Department will set aside specific criteria for hardship applications in the state Plan.~~

#### **150:80-1-8. Review and appeals process [REVOKED]**

~~(a) The Department will consider appeals of funding decisions only when project rating and ranking is at issue. Only the applicant may appeal a funding decision. Applicant may review their application and rating scores at any time after ratings and rankings have been released by the Department.~~

~~(b) Applicant failing threshold review do not have the right to an administrative appeal under the General Rules of Practice and Procedures of the Department.~~

~~(c) Requests for appeal shall be made within thirty days after applicant has been notified the application was not funded.~~

**150:80-1-9. Grantee responsibilities [REVOKED]**

~~(a) Grantee shall be responsible for taking action necessary to enforce terms of grant agreement against any private or public participant that fails to comply with provisions of grant agreement or any contract or document resulting from it, and to recover on behalf of the Department any costs that may arise as the result of a breach of the funding agreement.~~

~~(b) Grantee shall comply with all applicable laws, rules, and guidelines both federal and state, and general program guidance provided in Contractors Implementation Manual which is hereby incorporated.~~

**150:80-1-10. Program violations [REVOKED]**

~~The Department will consider a violation of program policies and procedures to have occurred, under any of the following circumstances:~~

- ~~(1) When there is non-compliance or substantial non-compliance with provisions stated in the terms and condition of contract.~~
- ~~(2) When there has been provision of false information in proposed project application and/or project reports.~~
- ~~(3) When requirements of the Department have not been met or have been violated.~~
- ~~(4) When there is significant deviation from the grant agreement.~~
- ~~(5) When significant corrective actions are necessary to protect the integrity of the projects funds, and those corrective actions are not or cannot be effected by the grantee, in the judgment of the Department within a reasonable time.~~
- ~~(6) When there has been a finding of fraud; waste or mismanagement of any current or prior State of Federally funded project.~~
- ~~(7) When one or more of the project activities have not begun within six months after a grant award unless significant justification for the delays is fully documented in a timely manner, and in such form and terms as requested by the Department.~~

**150:80-1-11. Corrective and remedial action [REVOKED]**

~~(a) The Department reserves the right under circumstances of possible program violations to request from the applicant or grantee, singularly or in combination, information regarding the administrative, planning, budgeting, management and evaluation functions, and other actions deemed necessary to clearly define the cause or causes of program violation(s). Under any of the stated program violations during the application for financial~~

~~assistance or grant implementation stage, the Department may take one or more of the following actions:~~

- ~~(1) Condition the grant~~
- ~~(2) Withhold funds~~
- ~~(3) Reduce the total amount of the grant award~~
- ~~(4) Require a return of unexpended funds~~
- ~~(5) Cancel a grant agreement and recover all funds expended in an ineligible manner prior to the date of notice of cancellation~~
- ~~(6) Deny future program applications and participation for a period not to exceed two program cycles.~~

~~(b) Prior to taking corrective and remedial actions, a notice of show cause hearing shall be issued by the Department to the applicant or grantee. The applicant or grantee shall have 10 working days to appear and show cause as to why corrective and remedial actions should not be taken.~~

### **SUBCHAPTER 3. STATE ENERGY CONSERVATION PROGRAMS [REVOKED]**

#### **150:80-3-1. Purpose [REVOKED]**

~~The purpose of this part to promote conservation of energy and reduce the rate of growth of energy demand for the State of Oklahoma through the development and implementation of comprehensive state energy conservation programs and provide financial and technical assistance in support of such programs. Further, to initiate programs that conserve and improve efficiency in the use of energy and encourages the use of renewable resources, tailored to meet local opportunities.~~

#### **150:80-3-2. Authority [REVOKED]**

~~(a) This program is authorized under Title III, Part C, as amended, of the Energy Policy and Conservation Act, 42 U.S.C. Sections 6321 et seq., Title III Part D, as amended, of the Energy Policy and Conservation Act, 42 U.S.C. Sections 6321 et seq., and Department of Energy Organization Act 42 U.S.C. Sections 7101 et seq.~~

~~(b) The legal authority to implement this program is vested in the Oklahoma Department of Commerce pursuant to 74 O.S.1991, Sections 5003.6, 5017, 5017.1 and 5032.~~

#### **150:80-3-3. Scope [REVOKED]**

~~The program shall provide financial assistance to units of local government, private and non-profit entities, and qualified individuals and firms that implement energy conservation projects which cause a reduction in energy consumption and demand for the State of Oklahoma. Each project shall have been determined to be energy efficient, practical, economical, and~~



~~tailored to meet a local requirement or respond to local opportunities.~~

#### **150:80-3-4. Definitions [REVOKED]**

~~The following words or terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:~~

~~"BTU" means British Thermal Unit.~~

~~"British Thermal Unit" means the quantity of heat necessary to raise the temperature of one pound of water one degree Fahrenheit at 39.2 degrees Fahrenheit and one atmospheric pressure.~~

~~"Building" means any structure which includes provision for a heating and cooling system, or both, or a hot water system.~~

~~"Commercial Buildings" means any building other than a residential building, including any building constructed for industrial or public purposes.~~

~~"Commercially available" means available for purchase by the general public or target audience in the State~~

~~"DOE" means the Department of Energy.~~

~~"Energy Audit" means a survey of a building or buildings that is conducted in accordance with 10 C.F.R. 420.7(d) and Subpart B of 10 C.F.R., Part 450 and which~~

~~(A) identifies the type, size, energy use level and the major energy using systems of such building or buildings;~~

~~(B) determines appropriate energy conservation maintenance and operating procedures; and~~

~~(C) indicates the need, if any, for the acquisition and installation of energy conservation measures.~~

~~"Energy Conservation" means efficient energy use or the utilization of renewable energy resources which results in energy savings based upon a net reduction in the use of nonrenewable energy resources.~~

~~"Environmental residual" means any pollutant or pollution causing factor which results from any activity.~~

~~"Exempted building" means:~~

~~(A) any building whose peak design rate of energy usage for all purposes is less than one watt (3.4 BTU's per hour) per square foot of floor area for all purposes;~~

~~(B) any building with neither a heating nor cooling system;~~

~~(C) any mobile home; or~~

~~(D) any building owned or leased in whole or in part by the United States.~~

~~"Exterior envelope physical characteristics" means the physical nature of those elements of a building which enclose~~

~~conditioned spaces through which thermal energy may be transferred to or from the exterior.~~

~~"Heating, ventilating and air-conditioning" means a system that provides heating, ventilation and/or air conditioning within or associated with a building.~~

~~"HVAC" means heating, ventilating and air conditioning.~~

~~"Industrial plant" means any fixed equipment or facility which is used in connection with, or as part of, any process or system for industrial production or output.~~

~~"Institution of higher education" means the same as such term is defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. Section 1141(a)).~~

~~"OMB" means the Office of Management and Budget of the U.S. government.~~

~~"Petroleum Violation Escrow Funds" For purposes of exempting petroleum violations escrow funds from the matching requirements of 10 C.F.R. 420.3(e) and 420.12(b), petroleum violations escrow funds means any funds distributed to the States by the Department of Energy or any court and identified as Alleged Crude Oil Violation funds, together with any interest earned thereon by the State, but excludes any funds designated as 'excess funds' under section 3003(d) of the Petroleum Overcharged Distribution and Restitution Act, subtitle A of title III of the Omnibus Budget Reconciliation Act of 1986, and the funds distributed under the 'Warner Amendment,' section 155 of P.L. 97-377.~~

~~"Plan" means a State energy conservation plan including required program measures in accordance with 10 C.F.R. Part 420.6.~~

~~"Program measure" means one or more State actions, in a particular area, designed to effect energy conservation, excluding actions in areas specifically covered by national energy conservation programs.~~

~~"Public building" means any building which is open to the public during normal business hours; except exempted buildings.~~

#### **150:80-3-5. Incorporated by reference [REVOKED]**

~~National standards for development of the State Plan are hereby incorporated by reference into these rules. These standards are described in Title III, Part C and D, of the Energy Policy and Conservation Act, as amended, 42 U.S.C. Sections 6321 et seq; Department of Energy Organization Act 42 U.S.C. Sections 7101 et seq. Department of Energy Assistance Regulations, 10 C.F.R. Part 600, and the State Energy Conservation Program, 10 C.F.R., Part 420.~~

#### **150:80-3-6. Funds distribution [REVOKED]**

~~(a) Program funds will be distributed to eligible entities in accordance with the State Plan. Funds will be distributed based on Federal program requirements and appropriate State program requirements. Program funds are to provide financial assistance to units of local governments, private and non-profit entities, and qualified individuals and firms that implement energy conservation projects which cause a reduction in energy consumption and demand for the State of Oklahoma. Funds will be distributed to projects that have been determined by the Department to be energy efficient, practical, economical, and tailored to meet a local requirement or respond to local opportunities.~~

~~(b) Program funds must be used to provide energy consumers a variety of energy related programs. The Department assumes responsibility for the development of programs which satisfy DOE funding requirements. Basic programs may include but are not limited to public education and outreach, public information and technical assistance, coordination of energy conservation programs, conduct energy conservation activities to residential, industry, commercial, educational institutions, and to conduct demonstration projects.~~

~~(c) The Department will allocate program funds in accordance with applicable program requirements of DOE and which accomplishes quantitative and qualitative energy savings goals or both as stated in the State plan.~~

~~(d) The program may not use funds authorized under this part for construction, such as mass transit systems and exclusive bus lanes or constructing or repairing buildings or structures; or to purchase land, a building, or structure, or any interest therein; or to subsidize fares for public transportation; or to subsidize utility rate demonstrations or state tax credits for energy conservation; or to conduct or purchase equipment to conduct research, development and demonstration conservation techniques and technologies not commercially available.~~

~~(e) Grant amounts authorized under this part will be determined based upon merits of a program measure and availability of funds.~~

~~(f) The Department reserves the right within its discretionary authority to adjust funding amounts to less than that which was originally proposed based on the most efficient and equitable utilization of available funds.~~

~~(g) The Department has occasionally received Petroleum Violation Escrow (PVE) funds to supplement the State Plan. These funds are in addition to federal appropriated dollars under which the program operates. These additional available funds will be used in the same manner as federal appropriated funds unless otherwise stated in the State Plan.~~

~~(h) Funds received under this part are subject to DOE regulations. All funds, whatever their source, assigned to this program will be subject to cost principles set out in OMB Circular A-21, OMB Circular A-87, OMB Circular A-122, and which are cited in DOE Financial Assistance Rules at 10 C.F.R., 600.422.~~

~~(1) Program funds are to be used to implement energy conservation programs which promote energy conservation and efficiency and reduces the rate of growth of energy demand within the boundaries of the State of Oklahoma.~~

~~(2) The State is to submit an annual plan to DOE which describes energy conservation and efficiency goals and shows how proposed program activities will address and achieve the energy savings stated in the goals.~~

#### **150:80-3-7. Application process [REVOKED]**

~~(a) For purposes of selecting grantees, eligible entities will be required to submit an application for financial assistance in a manner prescribed by the Department. Applicants will be required to provide sufficient information and documentation that is described in application guidelines or other instruments used to solicit applications for funding. The application shall clearly quantify and qualify energy conservation and efficiency activities that reduce the growth of energy demand for the State.~~

~~(b) The Department shall make available to potential applicants, upon request, all necessary instructions, forms and guidelines that will permit them to prepare a application suitable for funding under this part.~~

~~(c) The Department shall establish deadlines for each notice of availability of funds or other notice of solicitations in a manner which provides for the greatest response from eligible entities.~~

#### **150:80-3-8. Selection [REVOKED]**

~~(a) For purpose of selecting projects eligible for funding the Department will subject all proposals to specific minimum threshold requirements and selection factors. The threshold requirements and selection factors shall be set out in public solicitation notices.~~

~~(b) The Department will specify threshold requirements or other selection factors in the solicitation notice but may include as a minimum:~~

- ~~(1) Quantifiable and qualifiable energy savings~~
- ~~(2) Energy efficiency rating of applied technology~~
- ~~(3) Approved energy conservation application techniques~~
- ~~(4) Technology transfer activities~~
- ~~(5) Cost sharing requirements~~

- ~~(6) Completed application~~
- ~~(c) Applications for program funds will be reviewed and evaluated by the Department in accordance with the following:~~
- ~~(1) Applicant shall provide sufficient information for reviewer to draw empirical conclusions on the quality of energy savings based on energy conservation potential identified in an energy audit or its equivalent.~~
  - ~~(2) Preference will be provided to applications that have completed an energy audit without federal funds.~~
  - ~~(3) Building by building basis or measure by measure basis, whichever provides the most economic benefits.~~
  - ~~(4) Type of energy resource used or saved.~~
  - ~~(5) Quality of application.~~
  - ~~(6) Greatest degree funding assistance would be utilized to directly decrease use of non-renewable fuel resource.~~
  - ~~(7) Extent other funds are used to supplement proposed project costs.~~
  - ~~(8) Other factors determined by the Department and identified in the application packet.~~

**150:80-3-9. Review and appeals process [REVOKED]**

- ~~(a) The Department will consider appeals of its funding decision only when project rating and ranking is at issue. Only the applicant may appeal. Applicants failing the program's threshold review process do not have the right to an administrative appeal under the General Rules of Practice and Procedures of the Oklahoma Department of Commerce~~
- ~~(b) The applicant may review their application and rated scores anytime after the review and evaluation period.~~
- ~~(c) Requests for appeal shall be made within thirty days after the applicant has been notified that the application was not funded.~~
- ~~(d) An application which would have been funded but for a technical error in rating or ranking will be funded as soon as sufficient funds become available, provided the proposed project remains viable and eligible.~~

**150:80-3-10. Grantee responsibilities [REVOKED]**

- ~~(a) Grantee shall comply with all applicable laws, rules, and guidelines identified in the funding agreement and in the Contractor's Implementation Manual which is hereby incorporated.~~
- ~~(b) Grantee shall comply with any mutually acceptable special conditions which may be attached to the base funding agreements.~~
- ~~(c) Grantee shall be responsible for taking all action necessary to enforce terms of the funding agreement against all private or public participants that fail to comply with applicable provisions of the funding agreement or any binding agreements resulting from it. Grantee shall be responsible for the recovery~~

~~of any costs that may arise as the result of a breach of the agreement.~~

**150:80-3-11. Program violations [REVOKED]**

~~The Department will consider a violation of program policies and procedures to have occurred, under any of the following circumstances.~~

- ~~(1) When there is noncompliance or substantial noncompliance with provisions stated in terms and conditions of grant agreement.~~
- ~~(2) When there has been provision of false information in proposed project application or project reports.~~
- ~~(3) When program requirements have not been met or have been considered to have been violated by the Department.~~
- ~~(4) When there is significant deviation from the grant agreement based upon a monitoring visit by the Department.~~
- ~~(5) When significant corrective actions are necessary to protect the integrity of the projects funds, and those corrective actions are not or cannot be effected by the applicant or grantee, in the judgment of the Department within a reasonable time.~~
- ~~(6) When a finding of fraud; waste or mismanagement of any current or prior State or Federally funded project.~~
- ~~(7) When one or more of the project activities have not begun within six months after grant award unless justification for the delay or delays is fully documented in terms requested by the Department.~~

**150:80-3-12. Corrective and remedial action [REVOKED]**

~~(a) The Department reserves the right under circumstances of possible program violations to request information from the grantee regarding administration, planning, budgeting, management and evaluation functions; any activities undertaken that were not in conformance with the approved program or that were in non-compliance with terms and conditions of the funding agreement. In the event corrective or remedial action is necessary the Department may take the following courses of action.~~

- ~~(1) Condition the grant.~~
- ~~(2) Reduce the total amount of the grant award.~~
- ~~(3) Withhold funds.~~
- ~~(4) Require a return of any unexpended funds; require repayment of funds expended.~~
- ~~(5) Cancel a funding agreement and recover all funds expended in an ineligible manner prior to the date of notice of cancellation.~~

~~(6) Deny future program applications and participation for a period not to exceed two program cycles.~~

~~(b) Prior to taking any corrective and/or remedial actions, a notice of show cause hearing shall be issued by the Department to the grantee. Grantee shall have ten (10) working days to appear and show cause as to why corrective or remedial action should not be taken.~~