

**RULES
OF
TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION
OFFICE OF ENERGY PROGRAMS**

**0400-60-04
SMALL BUSINESS ENERGY LOAN PROGRAM**

TABLE OF CONTENTS

0400-60-04-.01	Authority	0400-60-04-.08	Energy Audit Required
0400-60-04-.02	Purpose and Scope	0400-60-04-.09	Eligible Measures
0400-60-04-.03	Definitions	0400-60-04-.10	Retroactive Assistance Prohibited
0400-60-04-.04	Maximum Loan Amount	0400-60-04-.11	Application Package Required
0400-60-04-.05	Repayment Period	0400-60-04-.12	Completion Certificate Required
0400-60-04-.06	Early Payoff of Loan	0400-60-04-.13	Confidentiality of Information Submitted
0400-60-04-.07	Eligibility		

0400-60-04-.01 AUTHORITY.

Pursuant to the provisions of T.C.A. § 11-1-101, the Commissioner of the Tennessee Department of Environment and Conservation may promulgate rules and regulations necessary to carry out such Commissioner's duties and responsibilities.

Authority: T.C.A. §§ 4-3-510 through 4-3-515, 4-5-201 et seq., 11-1-101, and Governor Haslam's Executive Order Number 25. **Administrative History:** Original rules filed January 17, 2017; effective April 17, 2017. Rule renumbered from 0500-03-04.

0400-60-04-.02 PURPOSE AND SCOPE.

- (1) The purpose of this program is to provide low interest loans to small businesses, units of county and local governments and other eligible organizations throughout the state of Tennessee to facilitate in the identification, installation, and incorporation of energy efficiency measures onto, or into, existing facilities, processes, and/or operations located in the state of Tennessee.
- (2) This chapter sets forth the rules for the submission, acceptance, review, and approval of applications for financial assistance under this program.

Authority: T.C.A. §§ 4-3-510 through 4-3-515, 4-5-201 et seq., 11-1-101, and Governor Haslam's Executive Order Number 25. **Administrative History:** Original rules filed January 17, 2017; effective April 17, 2017. Rule renumbered from 0500-03-04.

0400-60-04-.03 DEFINITIONS.

The following definitions shall apply to these rules:

- (1) "Applicant" means any individual, domestic Tennessee company or unit of county or local government applying for assistance under this program.
- (2) "Approved Applicant" means any applicant who has submitted an application for financial assistance and has been approved according to the approval criteria published by the Office of Energy Programs.
- (3) "Eligible Applicant" means any applicant that has met the applicant eligibility criteria published by the Office of Energy Programs.

(Rule 0400-60-04-.03, continued)

- (4) "Eligible Structure" means any structure that has met the structural eligibility criteria published by the Office of Energy Programs.
- (5) "Energy Efficiency Measure" means the installation of a new energy system or a modification to an existing energy system, plant process, operation, or structure which is primarily intended to reduce energy consumption or allow the use of an alternative energy source.
- (6) "Office of Energy Programs" means the Office of Energy Programs of the Tennessee Department of Environment and Conservation.
- (7) "Residential End Use" means any structure that is used for personal residential occupancy.
- (8) "Targeted Structure" means the structure onto which the identified energy efficiency measures will be affixed or which houses the applicant's existing plant processes, operations, or energy systems which will undergo an energy efficiency modification with proceeds of a loan under this program.
- (9) "TDEC" means the Tennessee Department of Environment and Conservation.
- (10) "TVA" means the Tennessee Valley Authority.

Authority: T.C.A. §§ 4-3-510 through 4-3-515, 4-5-201 et seq., 11-1-101, and Governor Haslam's Executive Order Number 25. **Administrative History:** Original rules filed January 17, 2017; effective April 17, 2017. Rule renumbered from 0500-03-04.

0400-60-04-.04 MAXIMUM LOAN AMOUNT.

The maximum loan amount available per applicant under this program shall be three hundred thousand dollars (\$300,000.00).

Authority: T.C.A. §§ 4-3-510 through 4-3-515, 4-5-201 et seq., 11-1-101, and Governor Haslam's Executive Order Number 25. **Administrative History:** Original rules filed January 17, 2017; effective April 17, 2017. Rule renumbered from 0500-03-04.

0400-60-04-.05 REPAYMENT PERIOD.

All loans approved and accepted under this program shall be paid back monthly within seven (7) years from the date that begins sixty (60) days after the date of loan closing.

Authority: T.C.A. §§ 4-3-510 through 4-3-515, 4-5-201 et seq., 11-1-101, and Governor Haslam's Executive Order Number 25. **Administrative History:** Original rules filed January 17, 2017; effective April 17, 2017. Rule renumbered from 0500-03-04.

0400-60-04-.06 EARLY PAYOFF OF LOAN.

There shall be no penalty assessed to the borrower for the early payoff of a loan under this program.

Authority: T.C.A. §§ 4-3-510 through 4-3-515, 4-5-201 et seq., 11-1-101, and Governor Haslam's Executive Order Number 25. **Administrative History:** Original rules filed January 17, 2017; effective April 17, 2017. Rule renumbered from 0500-03-04.

0400-60-04-.07 ELIGIBILITY.

In order to be approved for financial assistance under this program, both the applicant and the targeted structure must be deemed eligible according to criteria published by the Office of Energy Programs.

(Rule 0400-60-04-.07, continued)

- (1) Applicants for financial assistance must meet all of the following four (4) criteria:
 - (a) Be classified as either a small business of less than three hundred (300) employees or less than \$3.5 million in annual gross sales or receipts or a unit of county or local government utilizing the loan to improve the energy efficiency of an existing building that the applicant owns, occupies or uses for a business, industrial or commercial purpose.
 - (b) Own, occupy or use the targeted structure in its operations; and,
 - (c) Be declared financially sound and capable of repaying the monies borrowed according to criteria published by the Office of Energy Programs.
- (2) A structure that is to be the target for the installation of energy efficiency measures that will be financed with the proceeds of a loan under this program shall be considered an eligible structure only if it is an existing structure, at least one (1) year old, that is located within the territorial boundaries of the state of Tennessee and, is not:
 - (a) Classified as condemned or scheduled for demolition;
 - (b) Leased or rented by the applicant from another party unless the landlord has given the tenant written permission to proceed with the installation;
 - (c) Encumbered by a real estate sale, purchase, option, or trade agreement that is scheduled to take place prior to the maturity of the loan unless either:
 1. The current occupant/debtor agrees to retire the outstanding balance of the loan before closing the agreement; or,
 2. The new occupant agrees to retire the outstanding indebtedness according to the terms and conditions of the originally executed loan agreement;
 - (d) Included on the National Register of Historic Landmarks and Sites maintained by the U.S. Secretary of the Interior or, if included, has the approval, in writing, of the Historical Society to perform the work;
 - (e) Located in a wetland or special flood hazard area as designated by the Federal Emergency Management Agency; or,
 - (f) Encumbered by subordinate mortgages, mechanics', or materialmen's, and/or any other types of liens which would prevent the Office of Energy Programs from obtaining a security interest which is junior to no more than one security interest as collateral for a loan under the program or in an amount that would cloud the Office of Energy Programs' collateral or jeopardize the Programs' ability to collect on the unpaid balance of a loan in the event of a default.

Authority: T.C.A. §§ 4-3-510 through 4-3-515, 4-5-201 et seq., 11-1-101, and Governor Haslam's Executive Order Number 25. **Administrative History:** Original rules filed January 17, 2017; effective April 17, 2017. Rule renumbered from 0500-03-04.

0400-60-04-.08 ENERGY AUDIT REQUIRED.

An energy audit, conducted by either an architect or engineer licensed to do business in the state of Tennessee, the Tennessee Valley Authority or other energy utility, or an architect or engineer on the faculty or staff of a Tennessee college or university and in a format published by the Office of Energy Programs shall be a prerequisite for application review under this program.

(Rule 0400-60-04-.08, continued)

Authority: T.C.A. §§ 4-3-510 through 4-3-515, 4-5-201 et seq., 11-1-101, and Governor Haslam's Executive Order Number 25. **Administrative History:** Original rules filed January 17, 2017; effective April 17, 2017. Rule renumbered from 0500-03-04.

0400-60-04-.09 ELIGIBLE MEASURES.

Loans shall be made available only for the purchase and installation of one (1) or more energy efficiency, renewable energy and/or clean energy technology measures on projects that have been identified as having either a simple economic payback of ten (10) years or less or a positive net present value.

Authority: T.C.A. §§ 4-3-510 through 4-3-515, 4-5-201 et seq., 11-1-101, and Governor Haslam's Executive Order Number 25. **Administrative History:** Original rules filed January 17, 2017; effective April 17, 2017. Rule renumbered from 0500-03-04.

0400-60-04-.10 RETROACTIVE ASSISTANCE PROHIBITED.

The proceeds of all loans received under this program shall be used solely for the purpose of installing new energy efficiency measures and shall not be used to finance energy efficiency projects that were either completed, or in progress, prior to the date of the application for assistance.

Authority: T.C.A. §§ 4-3-510 through 4-3-515, 4-5-201 et seq., 11-1-101, and Governor Haslam's Executive Order Number 25. **Administrative History:** Original rules filed January 17, 2017; effective April 17, 2017. Rule renumbered from 0500-03-04.

0400-60-04-.11 APPLICATION PACKAGE REQUIRED.

In order to be considered for financial assistance under this program, an applicant must submit an approved application package to the Office of Energy Programs.

Authority: T.C.A. §§ 4-3-510 through 4-3-515, 4-5-201 et seq., 11-1-101, and Governor Haslam's Executive Order Number 25. **Administrative History:** Original rules filed January 17, 2017; effective April 17, 2017. Rule renumbered from 0500-03-04.

0400-60-04-.12 COMPLETION CERTIFICATE REQUIRED.

Loan proceeds shall not be disbursed unless the Office of Energy Programs has received a fully executed Work Completion Certificate signed by an authorized agent for the Office of Energy Programs.

Authority: T.C.A. §§ 4-3-510 through 4-3-515, 4-5-201 et seq., 11-1-101, and Governor Haslam's Executive Order Number 25. **Administrative History:** Original rules filed January 17, 2017; effective April 17, 2017. Rule renumbered from 0500-03-04.

0400-60-04-.13 CONFIDENTIALITY OF INFORMATION SUBMITTED.

- (1) T.C.A. § 4-3-514 provides that the Office of Energy Programs shall maintain the confidentiality of all proprietary information it may acquire. Proprietary information is defined as:

trade secrets and commercial or financial information that is used either directly or indirectly in the business of any person submitting information to the office under this chapter, and that gives such person an advantage or an opportunity to obtain an advantage over competitors who do not know or use such information.

The Office of Energy Programs will maintain any such records so deemed to be confidential in accordance with T.C.A. Title 10, Chapter 7, Part 5.

(Rule 0400-60-04-.13, continued)

(2) Copies of Public Records.

Copies of public records will be made available upon request in accordance with Rule 0400-01-01-.01.

Authority: T.C.A. §§ 4-3-510 through 4-3-515, 4-5-201 et seq., 11-1-101, and Governor Haslam's Executive Order Number 25. **Administrative History:** Original rules filed January 17, 2017; effective April 17, 2017. Rule renumbered from 0500-03-04.