shall solicit comments, data and information with respect to that interim determination. Written comments and responsive statements may be submitted as provided in paragraphs (b) and (c) of this section.

(e) Public announcement of final determination. The Assistant Secretary for Energy Efficiency and Renewable Energy shall, as soon as practicable, following receipt and review of comments and responsive statements on the interim determination publish in the FEDERAL REGISTER a notice of final determination on the Petition.

(f) Additional information. The Department may, at any time during the recognition process, request additional relevant information or conduct an investigation concerning the Petition. The Department’s determination on a Petition may be based solely on the Petition and supporting documents, or may also be based on such additional information as the Department deems appropriate.

(g) Withdrawal of recognition—(1) Withdrawal by the Department. If the Department believes that a certification program that has been recognized under § 431.447 is failing to meet the criteria of paragraph (b) of the section under which it is recognized, the Department will so advise such entity and request that it take appropriate corrective action. The Department will give the entity an opportunity to respond. If after receiving such response, or no response, the Department believes satisfactory corrective action has not been made, the Department will withdraw its recognition from that entity.

(2) Voluntary withdrawal. A certification program may withdraw itself from recognition by the Department by advising the Department in writing of such withdrawal. It must also advise those that use it (for a certification organization, the manufacturers) of such withdrawal.

(3) Notice of withdrawal of recognition. The Department will publish in the FEDERAL REGISTER a notice of any withdrawal of recognition that occurs pursuant to this paragraph (g).

[77 FR 26639, May 4, 2012]
§ 433.3 Materials incorporated by reference.

(a) General. The Department of Energy incorporates by reference the energy performance standards listed in paragraph (b) of this section into 10 CFR part 433. The Director of the Federal Register has approved the material listed in paragraph (b) of this section for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Any subsequent amendment to a standard by the standard-setting organization will not affect DOE regulations unless and until DOE amends its energy performance standards. Material is incorporated as it exists on the date of the approval, and a notice of any change in the material will be published in the FEDERAL REGISTER. All approved material is available for inspection at the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, Sixth Floor, 950 L’Enfant Plaza, SW., Washington, DC 20024, (202) 586–2945. Material is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/
§ 433.5 Performance level determination.

(a) (1) For Federal buildings for which design for construction began on or after January 3, 2007, but before August 10, 2012, each Federal agency shall determine energy consumption levels for both the ASHRAE Baseline Building 2004 and proposed building by using the Performance Rating Method found in appendix G of ASHRAE 90.1–2004 (incorporated by reference, see § 433.3), except the formula for calculating the Performance Rating in paragraph G1.2 shall read as follows:

\[
\text{Percentage improvement} = \frac{100 \times (\text{Baseline building consumption} - \text{Proposed building consumption})}{\text{Baseline building consumption}}.
\]

(2) For Federal buildings for which design for construction began on or after August 10, 2012, each Federal agency shall determine energy consumption levels for both the ASHRAE Baseline Building 2007 and proposed building by using the Performance Rating Method found in appendix G of ASHRAE 90.1–2007 (incorporated by reference, see § 433.3), except the formula for calculating the Performance Rating in paragraph G1.2 shall read as follows:

\[
\text{Percentage improvement} = \frac{100 \times (\text{Baseline building consumption} - \text{Proposed building consumption})}{\text{Baseline building consumption}}.
\]
§ 433.6 Sustainable principles for siting, design and construction. [Reserved]

§ 433.7 Water used to achieve energy efficiency. [Reserved]

§ 433.8 Life-cycle costing.
Each Federal agency shall determine life-cycle cost-effectiveness by using the procedures set out in subpart A of part 436. A Federal agency may choose to use any of four methods, including lower life-cycle costs, positive net savings, savings-to-investment ratio that is estimated to be greater than one, and an adjusted internal rate of return that is estimated to be greater than the discount rate as listed in OMB Circular Number A–94 “Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs.”

PART 434—ENERGY CODE FOR NEW FEDERAL COMMERCIAL AND MULTI-FAMILY HIGH RISE RESIDENTIAL BUILDINGS

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§ 434.601 General.
§ 434.602 Determination of the annual energy budget.
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