

minimal amount of burden on society to obtain regulatory objectives. The Executive Order also emphasizes the importance of meaningful public participation in the rulemaking process, and encourages agencies to increase their use of online technologies to simplify and facilitate participation for all stakeholders. Executive Order 13563 also requires agencies to coordinate, simplify, and harmonize regulations to reduce costs and promote certainty for businesses and the public.

The Executive Order recognizes that these principles should not only guide the federal government's approach to new regulations, but to existing ones as well. To that end, agencies are required to review existing significant regulations to determine if they are outmoded, ineffective, insufficient or excessively burdensome. Executive Order 13563 also requires that each agency develop and submit to the Office of Management and Budget's Office of Information and Regulatory Affairs a preliminary plan for periodically reviewing existing significant regulations to determine whether they should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving regulatory objectives.

## II. This Notice—HUD's Implementation of Executive Order 13563

Through this notice, HUD announces several steps that it is undertaking to comply with the regulatory review requirements of Executive Order 13563. The steps announced in this notice will help HUD to ensure that its regulations are updated and remain necessary, are properly tailored, and effectively achieve regulatory objectives without imposing unwarranted costs.

First, pursuant to the Executive Order, HUD is developing a preliminary plan for periodically analyzing existing significant regulations. Consistent with the principles articulated in the Executive Order, and HUD's commitment to public participation in the rulemaking process, HUD is beginning this process by soliciting views from the public on defined methods for identifying rules that may be obsolete, unnecessary, unjustified, excessively burdensome, or counterproductive. HUD intends for its preliminary plan to include an initial list of candidate rules for review. Accordingly, HUD also seeks suggestions for specific current regulations that may be outmoded, ineffective, or excessively burdensome, and therefore should be included on the list.

HUD has also established an e-mail inbox at [RegulatoryReview@hud.gov](mailto:RegulatoryReview@hud.gov) which interested parties may use, on an ongoing basis, to identify regulations that may be in need of review. The email box may also be used for the submission of comments in response to this notice. Irrespective of how they are submitted, HUD will make all comments received in response to this notice publicly available on <http://www.regulations.gov>. Please see the **ADDRESSES** section of this notice for additional information regarding the submission of comments.

## III. Issues for Public Comment

The following is the list of topics on which HUD specifically seeks comments. The topics represent a preliminary attempt to identify issues raised by HUD's effort to develop a preliminary plan for the retrospective analysis of its regulations and to identify regulations on which it should focus. With regards to specific existing regulations, HUD is particularly interested in receiving comments on regulations that have been in effect for a sufficient amount of time to warrant a fair evaluation. Comments should reference a specific regulation by citation to the Code of Federal Regulations, and provide information on the perceived problem and the rationale for any recommended solution. Commenters should focus on rule changes that will achieve a broad public impact, rather than an individual personal or corporate benefit.

This is a non-exhaustive list that is meant to assist in the formulation of comments and is not intended to limit the issues that commenters may choose to address.

1. How can HUD best obtain and consider accurate, objective information and data about the cost, burdens, and benefits of existing regulations? Are there existing sources of data available that HUD can use to evaluate the effects of its regulations over time?

2. What factors should HUD use to select and prioritize rules and reporting requirements for review?

3. Are there any specific existing HUD regulatory requirements that are ill-advised or so burdensome as to merit elimination?

4. Are there any specific existing HUD regulatory requirements that, while necessary, are ineffective and in need of streamlining or other modification to achieve their objectives? Why are these requirements ineffective—are they unnecessarily complicated, burdensome, or outdated? What changes to the regulations would increase their usefulness and meet HUD's objectives?

5. Are there any HUD regulatory requirements that have been overtaken by technological developments? Can new technologies be used to modify, streamline, or do away with these requirements?

6. Are there any existing HUD requirements that duplicate or conflict with requirements of another Federal agency? Can the requirement be modified to eliminate the conflict?

7. Are there HUD regulations that are working well and that can be expanded or used as a model for other HUD programs?

Dated: February 22, 2011.

**Helen R. Kanovsky,**  
General Counsel.

[FR Doc. 2011-4563 Filed 3-1-11; 8:45 am]

**BILLING CODE 4210-67-P**

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## DEPARTMENT OF ENERGY

### 10 CFR Part 431

[Docket No. EERE-2010-BT-STD-0048]

RIN 1904-AC04

#### **Energy Conservation Standards for Distribution Transformers: Public Meeting and Availability of the Preliminary Technical Support Document**

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Notice of public meeting and availability of preliminary technical support document.

**SUMMARY:** The U.S. Department of Energy (DOE or Department) will hold a public meeting to discuss and receive comments on the following issues: The equipment classes DOE plans to analyze for the purpose of considering the amendment of energy conservation standards for distribution transformers; the analytical framework, models, and tools DOE is using to evaluate standards for this type of equipment; the results of preliminary analyses performed by DOE for this equipment; and potential energy conservation standard levels derived from these analyses that DOE could consider for this equipment. DOE also encourages interested parties to submit written comments on these subjects. To inform stakeholders and facilitate the public meeting and comment process, DOE has prepared an agenda, a preliminary technical support document (TSD), and briefing materials, which are available at: [http://www.eere.energy.gov/buildings/appliance\\_standards/commercial/distribution\\_transformers.html](http://www.eere.energy.gov/buildings/appliance_standards/commercial/distribution_transformers.html).

**DATES:** The Department will hold a public meeting on Tuesday, April 5, 2011, from 9 a.m. to 5 p.m. in Washington, DC. Any person requesting to speak at the public meeting should submit such request, along with an electronic copy of the statement to be given at the public meeting, before 4 p.m., Tuesday, March 29, 2011. Written comments are welcome, especially following the public meeting, and should be submitted by April 18, 2011.

**ADDRESSES:** The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 1E-245, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Please note that foreign nationals participating in the public meeting are subject to advance security screening procedures. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting Ms. Brenda Edwards at (202) 586-2945 so that the necessary procedures can be completed.

Interested persons may submit comments, identified by the notice title, the Notice of Public Meeting (NOPM) for Energy Conservation Standards for Distribution Transformers, and provide the docket number EERE-2010-BT-STD-0048 and/or regulatory information number (RIN) 1904-AC04. Comments may be submitted using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:* [DistributionTransformers-2010-STD-0048@ee.doe.gov](mailto:DistributionTransformers-2010-STD-0048@ee.doe.gov). Include EERE-2010-BT-STD-0048 and/or RIN 1904-AC04 in the subject line of the message.

- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, Public Meeting for Distribution Transformers, EERE-2010-BT-STD-0048 and/or RIN 1904-AC04, 1000 Independence Avenue, SW., Washington, DC 20585-0121. *Phone:* (202) 586-2945. Please submit one signed paper original.

- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 6th Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024. *Phone:* (202) 586-2945. Please submit one signed paper original.

*Instructions:* All submissions received must include the agency name and docket number or RIN for this proposed rulemaking.

*Docket:* For access to the docket to read background documents, a copy of the transcript of the public meeting, or

comments received, go to the U.S. Department of Energy, 6th Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards for additional information regarding visiting the Resource Room.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jim Raba, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121. *Telephone:* (202) 586-8654. *E-mail:* [Jim.Raba@ee.doe.gov](mailto:Jim.Raba@ee.doe.gov).

Ms. Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, GC-71, 1000 Independence Avenue, SW., Washington, DC 20585. *Telephone:* (202) 287-6111. *E-mail:* <mailto:jennifer.tiedeman@hq.doe.gov>.

#### SUPPLEMENTARY INFORMATION:

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##### I. Statutory Authority

Title III, Part C of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94-163 (42 U.S.C. 6311-6317, as codified), added by Public Law 95-619, Title IV, § 441(a), established the Energy Conservation Program for Certain Industrial Equipment, a program covering distribution transformers, the focus of this notice.<sup>1</sup> EPCA, as amended by the Energy Policy Act of 1992, Public Law 102-486, directs the U.S. Department of Energy (DOE or the Department) to prescribe energy conservation standards for those distribution transformers for which the Secretary of Energy (Secretary) determines that standards “would be technologically feasible and economically justified, and would result in significant energy savings.” (42 U.S.C. 6317(a)) As discussed below in section II.A, DOE issued a final rule that prescribed standards for distribution transformers. 72 FR 58190 (October 12,

<sup>1</sup> For editorial reasons, upon codification in the U.S. Code, Part C was re-designated Part A-1.

2007) (the 2007 final rule); see 10 CFR 431.196(b)-(c).

Following the 2007 final rule, several interested parties filed petitions alleging that DOE's environmental assessment, conducted for the rulemaking, failed to address employment impacts, the value of reduced carbon dioxide emissions, and impacts on the price of energy, as required by the National Environmental Policy Act of 1969. Under the terms of a settlement agreement dated July 10, 2009, DOE is required to review the standards for liquid-immersed and medium-voltage dry-type (MVDT) distribution transformers and publish, no later than October 1, 2011, in the **Federal Register** either a determination that standards for these products do not need to be amended, or a notice of proposed rulemaking including any new proposed standards for these products. If it is determined that an amendment to the standards is warranted, DOE is required to publish a final rule in the **Federal Register** no later than October 1, 2012.

Before DOE amends any standard for distribution transformers, however, it must first solicit comments on a proposed standard. Moreover, DOE will design each standard for this equipment to: (1) Achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified, and (2) result in significant conservation of energy. (42 U.S.C. 6295(o)(2)(A) and (o)(3), 42 U.S.C. 6316(a), and 42 U.S.C. 6317(a) and (c)) To determine whether a proposed standard is economically justified, DOE must, after receiving comments on the proposed standard, determine whether the benefits of the standard exceed its burdens to the greatest extent practicable, weighing the following seven factors:

1. The economic impact of the standard on manufacturers and customers of equipment subject to the standard;
2. The savings in operating costs throughout the estimated average life of the covered equipment in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered equipment which are likely to result from the imposition of the standard;
3. The total projected amount of energy savings likely to result directly from the imposition of the standard;
4. Any lessening of the utility or the performance of the covered equipment likely to result from the imposition of the standard;
5. The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;
6. The need for national energy conservation; and
7. Other factors the Secretary considers relevant.

(42 U.S.C. 6295(o)(2)(B)(i) and 6316(a))

Prior to proposing a standard, DOE typically seeks public input on the analytical framework, models, and tools that will be used to evaluate standards; the results of preliminary analyses; and potential energy conservation standard levels derived from these analyses. With this notice, DOE is announcing the availability of the preliminary technical support document (preliminary (TSD)), which details the preliminary analyses and summarizes the preliminary results. In addition, DOE is announcing a public meeting to solicit feedback from interested parties on its analytical framework, models, and preliminary results.

## II. History of Standards Rulemaking for Distribution Transformers

The following sections provide a brief summary of DOE's rulemaking activities for distribution transformer energy conservation standards.

### A. Background

DOE published a final rule in October 2007 that established energy conservation standards for liquid-immersed and MVDT distribution transformers. 72 FR 58190 (October 12, 2007); *see* 10 CFR 431.196(b)–(c). During the course of that rulemaking, the Energy Policy Act of 2005 (EPACT 2005), Public Law 109–58, amended EPCA to set standards for low-voltage dry-type (LVDT) distribution transformers. (EPACT 2005, Section 135(c); codified at 42 U.S.C. 6295(y)) Consequently, DOE removed these transformers from the scope of that rulemaking. 72 FR at 58191 (October 12, 2007).

After publication of the 2007 final rule, certain parties filed petitions for review in the United States Courts of Appeals for the Second and Ninth Circuits, challenging the final rule, and several additional parties were permitted to intervene in support of these petitions. (All of these parties are referred to below collectively as “petitioners.”) The petitioners alleged that, in developing energy conservation standards for distribution transformers, DOE did not comply with certain applicable provisions of EPCA and of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.* DOE and the petitioners subsequently entered into a settlement agreement to resolve that litigation. The settlement agreement outlined an expedited timeline for the Department to determine whether to amend the energy conservation standards for liquid-immersed and MVDT distribution transformers. Under the terms of the

settlement agreement, DOE must publish by October 1, 2011 either a determination that the standards for these distribution transformers do not need to be amended or a notice of public rulemaking (NOPR) that includes any new proposed standards and that meets all applicable requirements of EPCA and NEPA. If DOE finds that amended standards are warranted, DOE must publish a final rule containing such amended standards by October 1, 2012. This notice is the Department's first step in satisfying the requirements of the settlement agreement.

### B. Current Rulemaking Process

DOE is initiating this rulemaking at the preliminary analysis stage rather than the framework document stage. In considering new or amended standards for a given product or type of equipment, DOE's historic practice, generally, is to publish a framework document as the first step in the rulemaking process, and to subsequently issue a preliminary TSD that contains the Department's preliminary analyses as to potential standards. The framework document generally advises interested parties of the analytical methods, data sources, and key assumptions DOE plans to use in considering the adoption of standards for the product or equipment type. Typically the document does not contain any analysis of the data.

On November 16, 2010, DOE announced a number of steps meant to streamline its regulatory process. Among these measures was the concept that, in appropriate circumstances, DOE might forego certain preliminary stages of the rulemaking process and gather data in more efficient ways. Because the previous rulemaking to develop standards for distribution transformers was completed in 2007, DOE has a set of methodologies, data sources and assumptions that have recently been vetted and revised according to public comments that the Department can use to perform the analyses needed for this rulemaking. Therefore, while DOE will conduct the analyses referenced by the petitioners' complaint and required by EPCA and NEPA according to standard practices for energy conservation standard rulemakings, DOE is not issuing a framework document for this rulemaking. Rather, DOE is initiating this rulemaking at the preliminary analysis stage and has prepared a preliminary TSD about which it is requesting comment.

At present, DOE plans to examine in this rulemaking amended standards for LVDT distribution transformers, as well as amended standards for liquid-

immersed and MVDT transformers. DOE is not required to consider LVDT distribution transformers as part of the settlement agreement. As such, DOE may subsequently opt to conduct a separate rulemaking for LVDT transformers with a different timeline. However, the preliminary analysis considers LVDT distribution transformers along with liquid-immersed and MVDT distribution transformers.

## III. Summary of the Analyses Performed by the U.S. Department of Energy

For each type of equipment under consideration in this rulemaking, DOE conducted in-depth technical analyses in the following areas: (1) Engineering, (2) markups to determine equipment price, (3) energy use, (4) life-cycle cost (LCC) and payback period (PBP) analyses, and (5) national impact analysis (NIA). The preliminary TSD presents the methodology and results of each of these analyses. It is available at the web address given in the **SUMMARY** section of this notice. The analyses are described in more detail below.

DOE also conducted several other analyses that either support the five aforementioned analyses or are preliminary analyses that will be expanded upon for the NOPR. These analyses include the market and technology assessment, the screening analysis (which contributes to the engineering analysis), and the shipments analysis (which contributes to the NIA). In addition to these analyses, DOE has completed preliminary work on the manufacturer impact analysis (MIA) and identified the methods to be used for the LCC subgroup analysis, the environmental assessment, the employment impact analysis, the regulatory impact analysis, and the utility impact analysis. DOE will expand on these analyses in the NOPR. In conducting these analyses, DOE will specifically consider employment impacts, the value of reduced carbon dioxide emissions, impacts on the price of energy, and cumulative climate change impacts, which were the focus of the petitioners' complaint from the previous rulemaking.

### A. Engineering Analysis

The engineering analysis establishes the relationship between the cost and efficiency of the equipment DOE is evaluating. This relationship serves as the basis for cost-benefit calculations for individual customers, manufacturers, and the nation. The engineering analysis identifies representative baseline

equipment, which is the starting point for analyzing technologies that provide energy efficiency improvements. Baseline equipment refers to a model or models having features and technologies typically found in equipment currently offered for sale. The baseline model in each equipment class represents the characteristics of the least efficient equipment in that class and, for equipment already subject to energy conservation standards, usually is a model that just meets the current standard. Chapter 5 of the preliminary TSD discusses the engineering analysis.

#### *B. Markups To Determine Equipment Prices*

DOE derives customer prices for equipment from data on manufacturer costs, manufacturer markups, retailer markups, distributor markups, and sales taxes. In deriving these markups, DOE has determined (1) The distribution channels for equipment sales; (2) the markup associated with each party in the distribution chain; and (3) the existence and magnitude of differences between markups for baseline equipment (baseline markups) and for more efficient equipment (incremental markups). DOE calculates both overall baseline and overall incremental markups based on the equipment markups at each step in the distribution chain. The overall incremental markup relates the change in the manufacturer sales price of higher efficiency models (the incremental cost increase) to the change in the retailer or distributor sales price. Chapter 6 of the preliminary TSD discusses estimating markups.

#### *C. Energy Use Analysis*

The energy use analysis provides estimates of the annual energy consumption of distribution transformers. DOE uses these values in the LCC and PBP analyses and in the NIA. DOE developed energy consumption estimates for all equipment analyzed in the engineering analysis and for those non-analyzed equipment classes included in the NIA. Chapter 7 of the preliminary TSD discusses the energy use analysis.

#### *D. Life-Cycle Cost and Payback Period Analyses*

The LCC and PBP analyses determine the economic impact of potential standards on individual customers. The LCC is the total customer expense for equipment over the life of the equipment. The LCC analysis compares the LCCs of equipment designed to meet possible energy conservation standards with the LCCs of the equipment likely to be installed in the absence of

amended standards. DOE determines LCCs by considering (1) Total or incremental installed cost to the purchaser (which consists of manufacturer selling price, sales taxes, distribution chain markups, and installation cost); (2) the operating expenses of the equipment (energy use and maintenance); (3) expected equipment lifetime; and (4) a discount rate that reflects the real consumer cost of capital and puts the LCC in present-value terms. The PBP is the number of years needed to recover the increase in purchase price (including installation cost) of more efficient equipment through savings in the operating cost of the equipment. It is the quotient of the change in total installed cost due to increased efficiency divided by the change in annual operating cost from increased efficiency. Chapter 8 of the preliminary TSD discusses the LCC and PBP analyses.

#### *E. National Impact Analysis*

The NIA estimates the national energy savings (NES) and the net present value (NPV) of total customer costs and savings expected to result from amended standards at specific efficiency levels. DOE calculated NES and NPV for each candidate standard level as the difference between a base case forecast (without amended standards) and the standards case forecast (with standards at that particular level). Cumulative energy savings are the sum of the annual NES determined over a specified analysis period. The national NPV is the sum over time of the discounted net savings each year, which consists of the difference between total operating cost savings and increases in total installed costs. Critical inputs to this analysis include shipments projections, estimated equipment lifetimes, and estimates of changes in shipments in response to changes in equipment costs due to standards. Chapter 10 of the preliminary TSD discusses the NIA.

DOE consulted with interested parties as part of its process for conducting all of the analyses and invites further input from the public on these topics. The preliminary analytical results are subject to revision following review and input from the public. The final rule will contain the final analysis results.

The Department encourages those who wish to participate in the public meeting to obtain the preliminary TSD and to be prepared to discuss its contents. A copy of the preliminary TSD is available at the web address given in the **SUMMARY** section of this notice. However, public meeting participants need not limit their comments to the topics identified in the preliminary

TSD. The Department is also interested in receiving views concerning other relevant issues that participants believe would affect energy conservation standards for this equipment or that DOE should address in the NOPR.

Furthermore, the Department invites all interested parties, regardless of whether they participate in the public meeting, to submit in writing by April 18, 2011, comments and information on matters addressed in the preliminary TSD and on other matters relevant to consideration of standards for distribution transformers.

The public meeting will be conducted in an informal, conference style. A court reporter will be present to record the minutes of the meeting. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by United States antitrust laws.

After the public meeting and the expiration of the period for submitting written statements, the Department will consider all comments and additional information that it obtains from interested parties or through further analyses. Afterwards, the Department will publish either a determination that the standards for distribution transformers need not be amended or a NOPR proposing to amend those standards. Any NOPR will include proposed energy conservation standards for the equipment covered by this rulemaking, and members of the public will be given an opportunity to submit written and oral comments on the proposed standards.

Issued in Washington, DC, on February 23, 2011.

**Cathy Zoi,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

[FR Doc. 2011-4607 Filed 3-1-11; 8:45 am]

**BILLING CODE 6450-01-P**

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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 73**

[Docket No. FAA-2011-0104; Airspace Docket No. 11-AEA-2]

#### **Proposed Amendment to and Establishment of Restricted Areas, Warren Grove; NJ**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

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