



**DEPARTMENT OF ENERGY**

**10 CFR Part 431**

**[EERE-2025-BT-TP-0035]**

**RIN 1904-AG06**

**Energy Conservation Program: Test Procedures for Commercial Warm Air Furnaces**

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

**ACTION:** Proposed rule; request for comment.

**SUMMARY:** The Department of Energy (DOE or the Department) is proposing to amend the test procedure for commercial warm air furnaces adopted under the Energy Policy and Conservation Act by rescinding Appendix B, “Uniform Test Method for Measurement of the Energy Efficiency of Commercial Warm Air Furnaces (Thermal Efficiency Two).” Upon further evaluation, the Department has tentatively determined that Appendix B is unduly burdensome to conduct, thereby failing to meet the statutory criteria for adoption of a test procedure. Commercial warm air furnaces will continue to be subject to the testing requirements of Appendix A, “Uniform Test Method for Measurement of the Energy Efficiency of Commercial Warm Air Furnaces (Thermal Efficiency).” DOE invites public input on its proposal.

**DATES: Comments:** Written comments and information are requested and will be accepted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

*Meeting:* DOE will hold a public meeting webinar on Thursday, May 29, 2025 from 1:00 p.m. to 4:00 p.m. See section V (Public Participation) for registration information, participant instructions, and information about the capabilities available to webinar participants.

**ADDRESSES:** Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) under docket number EERE-2025-BT-TP-0035.

Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE-2025-BT-TP-0035 and or regulatory identification number (RIN) 1904-AG06, by any of the following methods:

(1) *Email: ComWarmAirFurnaces2025TP@ee.doe.gov.* Include the docket number EERE-2025-BT-TP-0035 and/or RIN 1904-AG06 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

(2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, 1000 Independence Avenue SW, Washington, DC 20585-0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 287-1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section V (Public Participation) of this document.

*Docket:* The docket for this proposed rulemaking, which includes *Federal Register* notices, comments, and other supporting documents and materials, is available for review at [www.regulations.gov](http://www.regulations.gov). All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at [www.regulations.gov/docket/EERE-2025-BT-TP-0035](http://www.regulations.gov/docket/EERE-2025-BT-TP-0035). The docket web page contains instructions on how to access all documents, including public comments, in the docket, as well as a summary of the rulemaking. See section V, “Public Participation,” for further information on how to submit comments through [www.regulations.gov](http://www.regulations.gov). In accordance with 5 U.S.C. 553(b)(4), a summary of this rulemaking may be found at [regulations.gov](http://regulations.gov), under the docket number EERE-2025-BT-TP-0035.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Taggart, U.S. Department of Energy, Office of the General Counsel, GC-1, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5281. Email: [DOEGeneralCounsel@hq.doe.gov](mailto:DOEGeneralCounsel@hq.doe.gov).

For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: [ApplianceStandardsQuestions@ee.doe.gov](mailto:ApplianceStandardsQuestions@ee.doe.gov).

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### **I. Authority**

The Energy Policy and Conservation Act, as amended (EPCA),<sup>1</sup> among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. 42 U.S.C. 6291– 6317. Title III, Part C<sup>2</sup> of EPCA, Public Law 94–163 (42 U.S.C. 6311–6317, as codified) added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. This covered equipment includes commercial warm air furnaces (CWAFFs), the subject of this proposed rule. 42 U.S.C. 6311(1)(J).

The energy conservation program under EPCA consists essentially of four parts: (1) testing; (2) labeling; (3) the establishment of Federal energy conservation standards; and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6311), energy conservation standards (42 U.S.C. 6313), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), and the authority to require information and reports from manufacturers (42 U.S.C. 6316; 42 U.S.C. 6296).

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<sup>1</sup> All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A–1 of EPCA.

<sup>2</sup> For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

The Federal testing requirements consist of test procedures that manufacturers of covered equipment must use as the basis for: (1) certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6316(b); 42 U.S.C. 6296), and (2) making other representations about the efficiency of that equipment (42 U.S.C. 6314(d)). Similarly, DOE uses these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA.

Federal energy efficiency requirements for covered products/equipment established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. 42 U.S.C. 6316(a), (b); 42 U.S.C. 6297. DOE may, however, grant waivers of Federal preemption in limited circumstances for particular State laws or regulations, in accordance with the procedures and other provisions set forth under EPCA. 42 U.S.C. 6316(b)(2)(D).

Under 42 U.S.C. 6314, EPCA also sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered equipment. EPCA requires that any test procedures not be unduly burdensome to conduct. 42 U.S.C. 6314(a)(2).

EPCA requires that the test procedure for CWAFFs be those generally accepted industry testing procedures or rating procedures developed or recognized by the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) or by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), as referenced in ASHRAE Standard 90.1, “Energy Standard for Buildings Except Low-Rise Residential Buildings” (ASHRAE Standard 90.1). 42 U.S.C. 6314(a)(4)(A). Further, if such industry test procedure is amended, DOE must amend its test procedure to be consistent with the amended industry test procedure, unless DOE determines, by rule published in the *Federal Register* and supported by clear and convincing evidence, that such amended test procedure would not meet the requirements in 42 U.S.C. 6314(a)(2) and (3) related

to representative use and test burden, in which case DOE may establish an amended test procedure that does satisfy those statutory provisions. 42 U.S.C. 6314(a)(4)(B) and (C).

EPCA also requires that, at least once every seven years, DOE evaluate test procedures for each type of covered equipment, including CWAFs, to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle. 42 U.S.C. 6314(a)(1)–(3).

In addition, if DOE determines that a test procedure amendment is warranted, the Department must publish proposed test procedures in the *Federal Register* and afford interested persons an opportunity (of not less than 45 days duration) to present oral and written data, views, and arguments on the proposed test procedures. 42 U.S.C. 6314(b). If DOE determines that test procedure revisions are not appropriate, DOE must publish in the *Federal Register* its determination not to amend the test procedures. 42 U.S.C. 6314(a)(1)(A)(ii).

## **II. Background**

In January 2023, ASHRAE released the latest version of ASHRAE Standard 90.1 (ASHRAE Standard 90.1–2022), which updated the referenced industry standards for testing CWAFs to reflect the most recent versions of those standards that are currently available, thereby triggering DOE’s rulemaking obligations under EPCA. Consequently, DOE conducted a rulemaking to consider amending the test procedure for CWAFs in satisfaction of both the “ASHRAE trigger” requirement under 42 U.S.C. 6314(a)(4)(B) and the 7-year-lookback review requirement specified in EPCA under 42 U.S.C. 6314(a)(1). DOE completed this rulemaking by publication of a final rule in the *Federal Register* on June 2, 2023 (“June 2023 Final Rule”), through which the Department prescribed the current test procedure for CWAFs (*i.e.*, Appendix A) manufactured on and after May 28, 2024. 88 FR 36217. Compliance with Appendix B (also

adopted as part of the June 2023 Final Rule) is not required until the compliance date of any energy conservation standards for CWAFs denominated in terms of Thermal Efficiency Two (TE2). The CWAFs test procedure is set forth in DOE's regulations at 10 CFR part 430, subpart D, appendices A and B.

The CWAFs test procedure final rule was challenged by the Air-Conditioning, Heating, and Refrigeration Institute (AHRI), which filed a petition for review of the final rule on August 1, 2023 in the United States Court of Appeals for the Fourth Circuit. In a February 6, 2024, order, the Fourth Circuit granted a voluntary remand of the final rule to DOE to determine whether establishment of the test procedure for the TE2 metric is supported by the specific provisions applicable to CWAFs under EPCA. More specifically, DOE agreed in this voluntary remand to not enforce the TE2 test procedure unless and until the Department determines that the TE2 test procedure is consistent with the amended industry test procedure, or determines, supported by clear and convincing evidence, that the amended industry test procedure fails to satisfy the statutory requirements.

On January 17, 2025, DOE published a final determination in the *Federal Register* ("January 2025 Final Determination"), which provided DOE's conclusion that the amended industry test procedure fails to satisfy EPCA's statutory requirements, thereby supporting DOE's finding that the test procedure incorporating the TE2 metric is justified under the applicable statutory criteria. 90 FR 5560. In that document, DOE pointed to the industry standard's failure to account for CWAF jacket losses or part-load operation, which the Department considered significant factors in terms of CWAF energy use. Thus, DOE reasoned that the industry standard does not account for significant variations in energy use across different CWAF models. Consequently, DOE determined that the industry test procedure was not reasonably designed to produce test results which reflect energy efficiency during a representative average use cycle that, as determined by DOE, includes jacket losses and part-load operation for the TE2 metric. 90 FR 5560, 5565-5566 (Jan. 17. 2025).

### **III. Discussion**

DOE is once again reviewing the test procedure for CWAFFs codified at 10 CFR part 430, subpart D, appendices A and B. The Secretary is pursuing a new policy to reduce regulatory burden wherever possible. Under that policy, DOE is reevaluating existing test procedures to determine whether they are unduly burdensome to conduct. In this case, after a reevaluation of the CWAFFs test procedure pursuant to the authority in 42 U.S.C. 6314(a)(1)-(4), the Secretary has tentatively determined, after reviewing the reasoning of the June 2023 Final Rule and the January 2025 Final Determination, that DOE had insufficient evidence to support adoption of the TE2 metric and overestimated the impacts of jacket losses and part-load operation on CWAFF energy use. Furthermore, the Secretary has tentatively concluded that DOE underestimated the burdens of the TE2 test procedure in 10 CFR part 430, subpart D, appendix B. Accordingly, DOE proposes to remove the definition of “Thermal efficiency two” and Appendix B from its regulations for commercial warm air furnaces.

### **IV. Procedural Issues and Regulatory Review**

#### *A. Review Under Executive Order 12866*

Executive Order (E.O.) 12866, “Regulatory Planning and Review,” requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be

made by the public. For the reasons stated in the preamble, this proposed regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to OIRA for review. OIRA has determined that this proposed regulatory action does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this proposed action was not submitted to OIRA for review under E.O. 12866.

#### *B. Review Under the Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website ([www.energy.gov/gc/office-general-counsel](http://www.energy.gov/gc/office-general-counsel)).

DOE reviewed this proposed action under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. This proposal rescinds the existing regulatory standards developed and adopted by DOE and reverts to the prior procedures for these products. Therefore, DOE initially concludes that the impacts of its burden-reducing proposal would not have a “significant economic impact on a substantial number of small entities,” and, therefore, the preparation of an IRFA is not warranted. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

#### *C. Review Under the Paperwork Reduction Act*

This proposed action would impose no new information or record-keeping requirements.

Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*).

*D. Review Under the National Environmental Policy Act of 1969*

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969, as amended, (“NEPA”) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE's regulations include categorical exclusions for certain rulemakings. See 10 CFR part 1021, subpart D, appendices A and B. DOE is considering the categorical exclusions potentially applicable to this proposed rule, such as B5.1, and welcomes comment on the potential application of categorical exclusion(s). DOE will complete its NEPA review before issuing the final rule.

*E. Review Under Executive Order 13132*

E.O. 13132, “Federalism,” 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this proposal and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption

from such preemption to the extent, and based on criteria, set forth in EPCA. 42 U.S.C. 6297.

Therefore, no further action is required by E.O. 13132.

#### *F. Review Under Executive Order 12988*

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed action meets the relevant standards of E.O. 12988.

#### *G. Review Under the Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104-4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal

governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. 2 U.S.C. 1532(a), (b). The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE’s policy statement is also available at [www.energy.gov/sites/prod/files/gcprod/documents/umra\\_97.pdf](http://www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf).

DOE examined this proposed action according to UMRA and its statement of policy and determined that the proposed rule, which reduces regulatory burdens, does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of \$100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

#### *H. Review Under the Treasury and General Government Appropriations Act, 1999*

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

#### *I. Review Under Executive Order 12630*

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), DOE has determined that this

proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

*J. Review Under the Treasury and General Government Appropriations Act, 2001*

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M-19-15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at:

<https://www.energy.gov/cio/department-energy-information-quality-guidelines>. DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

*K. Review Under Executive Order 13211*

E.O. 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This proposed rule is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

*L. Review Under the Information Quality Bulletin for Peer Review*

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (“OSTP”), issued its Final Information Quality Bulletin for Peer Review (“the Bulletin”). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government’s scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are “influential scientific information,” which the Bulletin defines as “scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.” 70 FR 2664, 2667. In response to OMB’s Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE’s analytical methodologies to ascertain whether modifications are needed to improve the Department’s analyses. DOE is in the process of evaluating the resulting report.

*M. Review Under Additional Executive Orders and Presidential Memoranda*

DOE has examined this proposed rule and has tentatively determined that it is consistent

with the policies and directives outlined in E.O. 14154, “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and Presidential Memorandum, “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.” This proposed rule, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

## **V. Public Participation**

### *A. Attendance at the Public Meeting Webinar*

The time and date of the public meeting webinar are listed in the **DATES** and **ADDRESSES** sections at the beginning of this document. If you plan to attend the public meeting webinar, please notify the Appliance and Equipment Standards staff at (202) 287–1445 or *Appliance\_Standards\_Public\_Meetings@ee.doe.gov*.

Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE’s website at *https://www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines*. Participants are responsible for ensuring their systems are compatible with the webinar software.

### *B. Procedure for Submitting Prepared General Statements for Distribution*

Any person who has plans to present a prepared general statement may request that copies of his or her statement be made available at the public meeting webinar. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the public

meeting and are to be emailed. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

### *C. Conduct of the Public Meeting Webinar*

DOE will designate a DOE official to preside at the public meeting webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA. 42 U.S.C. 6306. A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the public meeting webinar, interested parties may submit further comments on the proceedings, as well as on any aspect of the proposed rulemaking, until the end of the comment period.

The public meeting webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or

modification of the previous procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting webinar will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document and will be accessible on the DOE website. In addition, any person may buy a copy of the transcript from the transcribing reporter.

#### *D. Submission of Comments*

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

*Submitting comments via [www.regulations.gov](http://www.regulations.gov).* The *www.regulations.gov* webpage will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

*Submitting comments via email, hand delivery/courier, or postal mail.* Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any

defects or viruses. Documents should not contain special characters or any form of encryption, and, if possible, they should carry the electronic signature of the author.

*Campaign form letters.* Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

*Confidential Business Information.* Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

## **VI. Approval of the Office of the Secretary**

The Secretary of Energy has approved publication of this proposed rule; request for comment.

### **List of Subjects in 10 CFR Part 431**

Administrative practice and procedure, Confidential business information, Energy conservation, Incorporation by reference, Recordkeeping requirements.

### **Signing Authority**

This document of the Department of Energy was signed on May 9, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on May 9, 2025.

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Treena V. Garrett,  
Federal Register Liaison Officer,  
U.S. Department of Energy.

For the reasons set forth in the preamble, DOE is proposing to amend part 431 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth:

**PART 431 -- ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT**

1. The authority citation for part 431 continues to read as follows:

**Authority:** 42 U.S.C. 6291-6317; 28 U.S.C. 2461 note.

**§ 431.72 [Amended]**

2. Amend §431.72 by removing the definition for “Thermal efficiency two.”

**Appendix A to Subpart D of Part 431 [Amended]**

3. Amend appendix A to subpart D of part 431 by removing the second paragraph of the introductory note.

**Appendix B to Subpart D of Part 431 [Removed]**

4. Remove appendix B to subpart D of part 431.

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