

and may be used in conjunction with an animal number unique within the flock to provide a unique official identification number for an animal, or may be used in conjunction with the date and a sequence number to provide a group/lot identification number for a group of animals when group identification is permitted.

\* \* \* \* \*

*National Uniform Eartagging System.* A numbering system for the official identification of individual animals in the United States providing a nationally unique identification number for each animal. The National Uniform Eartagging System employs an eight- or nine-character alphanumeric format, consisting of a two-number State or territory code, followed by two or three letters and four additional numbers. Official APHIS disease programs may specify which format to employ.

*Official eartag.* An identification tag approved by APHIS to provide unique identification for individual animals. Beginning [Insert date 1 year after effective date of final rule], all official eartags applied to animals must bear the U.S. shield. The design, size, shape, color, and other characteristics of the official eartag will depend on the needs of the users, subject to the approval of the Administrator. The official eartag must be tamper-resistant and have a high retention rate in the animal. All official eartags used in Federal disease programs must be correlated with the premises identification number of the premises to which they are issued using the Animal Identification Number Management System (AINMS) or other recordkeeping systems approved by the Administrator. Official eartags for sheep and goats must be approved for use in the National Scrapie Eradication Program in accordance with § 79.2(f) of this subchapter. Numbers applied to official eartags must adhere to one of the following numbering systems:

(1) National Uniform Eartagging System. The Johnes program requires the use of the nine-character format for cattle.

(2) Animal identification number (AIN). AIN eartags attached to any animals on or after [Insert date 1 year after effective date of final rule] must display an AIN with an 840 prefix. These numbers must be correlated with the premises identification number of the premises to which they are issued using the AINMS.

(3) Premises-based number system. The premises-based number system combines a premises identification number (PIN), as defined in this section, with a producer's livestock production

numbering system to provide a unique identification number. The PIN and the production number must both appear on the official tag. Official eartags using a premises-based numbering system that are issued on or after [Insert date 1 year after effective date of final rule] must employ the seven-character alphanumeric PIN format.

(4) A flock identification number (FIN), as defined in this section, used in conjunction with a producer's livestock production numbering system to provide a unique identification number. The FIN and the production number must both appear and be distinct on the official tag and may not include the letters "I," "O," or "Q" other than as part of a State postal abbreviation.

(5) In the case of sheep and goats, a unique eight-digit number composed of the State postal abbreviation followed by two letters (not including "I," "O," or "Q") and four numbers.

(6) Any other numbering system approved by the Administrator for the identification of animals in commerce.

\* \* \* \* \*

*Premises identification number (PIN).* A nationally unique number assigned by a State, Tribal, and/or Federal animal health authority to a premises that is, in the judgment of the State, Tribal, and/or Federal animal health authority, a geographically distinct location from other premises. The premises identification number is associated with an address, geospatial coordinates, and/or location descriptors which provide a verifiably unique location. The premises identification number may be used in conjunction with a producer's own livestock production numbering system to provide a unique identification number for an animal. It may also be used as a component of a group/lot identification number. Premises identification numbers issued on or after [Insert effective date of final rule] shall consist of a seven-character alphanumeric code, with the right-most character being a check digit. The check digit number is based upon the ISO 7064 Mod 36/37 check digit algorithm.

\* \* \* \* \*

Done in Washington, DC, this 7th day of January 2009.

**Cindy J. Smith,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E9-353 Filed 1-13-09; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF ENERGY

### 10 CFR Part 430

[Docket No. EERE-2006-BT-STD-0129]

RIN 1904-AA90

#### Energy Conservation Standards for Residential Water Heaters, Direct Heating Equipment, and Pool Heaters: 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 Department of Energy (DOE) will hold an informal public meeting to discuss and receive comments on the product classes that DOE plans to analyze for purposes of amending energy conservation standards for certain residential heating products; the analytical framework, models, and tools that DOE is using to evaluate standards for these products; the results of preliminary analyses performed by DOE for these products; and potential energy conservation standard levels derived from these analyses that DOE could consider for these products. DOE also encourages written comments on these subjects. To inform stakeholders and facilitate this process, DOE has prepared an agenda, a preliminary Technical Support Document (preliminary-TSD), and briefing materials, all of which are available at: [http://www.eere.energy.gov/buildings/appliance\\_standards/residential/heating\\_products.html](http://www.eere.energy.gov/buildings/appliance_standards/residential/heating_products.html).

**DATES:** DOE will hold a public meeting on Monday, February 9, 2009, 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., Monday, January 26, 2009. Written comments are welcome, especially following the public meeting, and should be submitted by March 16, 2009.

**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 docket number EERE-2006-BT-STD-0129, by any of the following methods:

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

- *E-mail*: [ResWaterDirectPoolHtrs@ee.doe.gov](mailto:ResWaterDirectPoolHtrs@ee.doe.gov). Include EERE-2006-BT-STD-0129 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 Residential Water Heaters, Direct Heating Equipment, and Pool Heaters, EERE-2006-BT-STD-0129, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone (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. Telephone (202) 586-2945. Please submit one signed paper original.

*Instructions*: All submissions received must include the agency name and docket number.

*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, (202) 586-2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at (202) 586-2945 for additional information regarding visiting the Resource Room. Please note that DOE's Freedom of Information Reading Room (formerly Room 1E-190 at the Forrestal Building) is no longer housing rulemaking materials.

**FOR FURTHER INFORMATION CONTACT:** Mohammed Khan, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-7892. E-mail: [Mohammed.Khan@ee.doe.gov](mailto:Mohammed.Khan@ee.doe.gov). Michael Kido, U.S. Department of Energy, Office of General Counsel, GC-72, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-8145. E-mail: [Michael.Kido@hq.doe.gov](mailto:Michael.Kido@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Statutory Authority**

Title III of the Energy Policy and Conservation Act (42 U.S.C. 6291, *et seq.*) (EPCA) established the Energy Conservation Program for Consumer Products Other than Automobiles, covering major household appliances including water heaters and home heating equipment. Subsequent amendments expanded Title III of EPCA to include additional consumer products and certain commercial and industrial equipment, including residential pool heaters. (42 U.S.C. 6291, *et seq.*) Furthermore, the National Appliance Energy Conservation Act of 1987 (NAECA) amended EPCA by establishing energy conservation standards for residential water heaters, "direct heating equipment" (replacing the term "home heating equipment" previously used in EPCA), and pool heaters, as well as requirements for determining whether these standards should be amended. (42 U.S.C. 6295(e)(1) through (4))

Before DOE prescribes an amended standard for any of these products, however, it must first solicit comments on a proposed standard. Moreover, DOE must design each new or amended standard for these products 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 (3)) 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 consumers of products subject to the standard;
2. The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products 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 products 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).)

Prior to proposing a standard, DOE typically seeks public input on the analytical framework, models, and tools that DOE will use to evaluate standards for the product at issue; the results of preliminary analyses performed by DOE for the product; and potential energy conservation standard levels derived from these analyses that DOE could consider. DOE is publishing this document to announce the availability of the preliminary TSD, which details the preliminary analyses, discusses the comments on the Framework document, 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.

**B. History of Standards Rulemaking for Residential Heating Products**

*1. Background*

As indicated above, NAECA amended EPCA to establish energy conservation standards for each of the three heating products, applicable to units manufactured on or after January 1, 1990. For water heaters, EPCA prescribed minimum efficiency levels that vary depending on the storage volume of the product and the type of energy it uses (*i.e.*, gas, oil, or electricity). (42 U.S.C. 6295(e)(1)) For gas-fired direct heating equipment, EPCA prescribed a range of minimum annual fuel utilization efficiency (AFUE) levels, each of which applies to units of a particular type and heating capacity range. (42 U.S.C. 6295(e)(3)) In addition, for gas-fired pool heaters, EPCA prescribed a minimum thermal efficiency of 78 percent for all units. (42 U.S.C. 6295(e)(2)) For all three of the products, EPCA further requires that DOE conduct two cycles of rulemakings to determine whether the standards should be amended. (42 U.S.C. 6295(e)(4)).

On January 17, 2001, DOE published a final rule (the January 2001 final rule), effective on January 20, 2004, amending the energy conservation standards for residential water heaters. 66 FR 4474. DOE has not amended the energy conservation standards for direct heating equipment or pool heaters.

As to direct heating equipment, before the enactment of NAECA, EPCA included "home heating equipment" in

DOE's appliance standards program. DOE construed this term as covering unvented as well as vented products, and prescribed a separate test procedure for each. 43 FR 20128, 20132 (May 2, 1978). Each of these test procedures has since been amended and both are codified in 10 CFR part 430, Subpart B, Appendix G ("Uniform Test Method for Measuring the Energy Consumption of Unvented Home Heating Equipment") and Appendix O ("Uniform Test Method for Measuring the Energy Consumption of Vented Home Heating Equipment"). However, when NAECA replaced the term "home heating equipment" with "direct heating equipment" in NAECA's amendments to EPCA in 1987 (42 U.S.C. 6295(e)(3)), the new energy conservation standards for this equipment only affected gas products and the statutorily-prescribed standards used the AFUE descriptor, which applies to vented, but not unvented, equipment. Because of the limitation imposed by the statute's use of the AFUE descriptor, subsequent DOE actions concerning direct heating equipment have focused solely on vented products.<sup>1</sup>

The current test procedure for unvented equipment also does not include a method for measuring energy efficiency. Despite this fact, because of the manner in which unvented heating products operate, which is to dissipate any heat losses directly into the conditioned space, the amount of energy efficiency losses from these products is minimal. In view of this belief, at this time, DOE is unaware of how the addition of a procedure to measure the energy efficiency of these particular products would yield significant energy efficiency benefits or would otherwise be practical.

DOE also notes that while the NAECA amendments authorized DOE to regulate unvented direct heating equipment, the rulemaking DOE is currently considering would address standards only for vented direct heating equipment since there is currently no energy efficiency descriptor or test procedure that DOE could apply as the basis for an amended standard for unvented heating products.

## 2. Current Rulemaking Process

To initiate the process to develop standards, on September 27, 2006, DOE published on its Web site the Rulemaking Framework for Residential Water Heaters, Direct Heating

Equipment, and Pool Heaters (the framework document), which describes the procedural and analytic approaches it anticipated using to evaluate the establishment of energy conservation standards for these products. This document is available at [http://www.eere.energy.gov/buildings/appliance\\_standards/residential/pdfs/heating\\_equipment\\_framework\\_092706.pdf](http://www.eere.energy.gov/buildings/appliance_standards/residential/pdfs/heating_equipment_framework_092706.pdf). DOE also published a notice announcing the availability of the framework document and a public meeting to discuss the proposed analytical framework, and inviting written comments concerning the development of standards for the three heating products. 71 FR 67825 (November 24, 2006).

The focus of the public meeting, which was held on January 16, 2007, was to discuss the analyses and issues identified in various sections of the framework document. At the meeting, DOE described the different analyses it would conduct, the methods proposed for conducting them, and the relationships among the various analyses. Manufacturers, trade associations, environmental advocates, regulators, and other interested parties attended. Information related to the meeting is available at [http://www.eere.energy.gov/buildings/appliance\\_standards/residential/heating\\_equipment\\_mtg.html](http://www.eere.energy.gov/buildings/appliance_standards/residential/heating_equipment_mtg.html).

In response to the requests of interested parties at the public meeting, DOE subsequently published in the **Federal Register** a notice that extended the comment period by two weeks. 72 FR 4219 (January 30, 2007). Written comments submitted during the comment period elaborated on the issues raised at the meeting and addressed other major issues, including

- Scope of coverage;
- Product classes;
- Efficiency levels analyzed for the engineering analysis;
  - Installation, repair, and maintenance costs; and
  - Product and fuel switching.

Comments received since publication of the framework document have helped identify issues DOE needs to address in developing a proposed standard and provided information contributing to DOE's proposed resolution of these issues.

## C. Summary of the Analyses Performed by DOE

For each of the three heating products currently under consideration, DOE conducted in-depth technical analyses in the following areas: (1) Engineering, (2) energy-use characterization, (3) markups to determine product price, (4)

life-cycle cost (LCC) and payback period (PBP) analyses, and (5) national impact analysis (NIA). These analyses resulted in a preliminary TSD that presents the methodology and results of each of these analyses. The preliminary TSD 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 major analyses or are preliminary analyses that will be expanded upon during the notice of proposed rulemaking (NOPR).<sup>2</sup> 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 begun some 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 analysis, the regulatory impact analysis, and the utility impact analysis. DOE will expand on these analyses in the NOPR.

### 1. Engineering Analysis

The engineering analysis establishes the relationship between the cost and efficiency of a product DOE is evaluating for amended energy conservation standards. This relationship serves as the basis for cost-benefit calculations for individual consumers, manufacturers, and the Nation. The engineering analysis identifies representative baseline products, which is the starting point for analyzing technologies that provide energy efficiency improvements. Baseline product refers to a model or models having features and technologies typically found in products currently offered for sale. The baseline model in each product class represents the characteristics of products in that class and, for products already subject to energy conservation standards, usually is a model that just meets the current standard. After identifying the baseline models, DOE estimated manufacturer selling prices through an analysis of (1) manufacturer costs, and (2) markups,

<sup>2</sup> For past rulemakings, DOE was required to issue an Advanced Notice of Proposed Rulemaking (ANOPR) following publication of the framework document. The Energy Independence and Security Act of 2007 (EISA) eliminated the requirement that DOE issue an ANOPR as part of the standards rulemaking process; see EISA, at sec. 307. Instead, DOE is using this alternative process to provide the same information and ability for public comment as the ANOPR, but without publication of analyses in the **Federal Register**.

<sup>1</sup> See 59 FR 10464, (March 4, 1994) (NOPR proposing standards for eight separate products) and 62 FR 26140 (May 12, 1997) (final rule prescribing test procedure amendments affecting direct heating equipment).

which are the multipliers used to determine the manufacturer selling prices based on manufacturing cost. Chapter 5 of the preliminary TSD discusses the engineering analysis.

### 2. Energy Use Characterization

The energy use characterization provides estimates of annual energy consumption for the three heating products, which DOE uses in the LCC and PBP analyses and the NIA. DOE developed energy consumption estimates for all of the product classes analyzed in the engineering analysis as the basis for its energy use estimates. Chapter 7 of the preliminary TSD discusses the energy use characterization.

### 3. Markups To Determine Product Prices

DOE derives consumer prices for products based on manufacturer markups, retailer markups, distributor markups, contractor markups, builder markups, and sales taxes. In deriving these markups, DOE has determined (1) The distribution channels for product sales; (2) the markup associated with each party in the distribution channels; and (3) the existence and magnitude of differences between markups for baseline products (baseline markups) and for more-efficient products (incremental markups). DOE calculates both overall baseline and overall incremental markups based on the product markups at each step in the distribution channel. 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 the estimation of markups.

### 4. Life-Cycle Cost and Payback Period Analyses

The LCC and PBP analyses determine the economic impact of potential standards on individual consumers. The LCC is the total consumer expense for a product over the life of the product. The LCC analysis compares the LCCs of products designed to meet possible energy conservation standards with the LCCs of the products likely to be installed in the absence of standards. DOE determines LCCs by considering (1) Total 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 products (energy use and maintenance); (3) product lifetime; and (4) a discount rate that reflects the real consumer cost of capital and puts the LCC in present-

value terms. The PBP represents the number of years needed to recover the increase in purchase price (including installation cost) of more efficient products through savings in the operating cost of the product. It is 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.

### 5. National Impact Analysis

The NIA estimates the national energy savings (NES) and the net present value (NPV) of total consumer costs and savings expected to result from new standards at specific efficiency levels (referred to as candidate standard levels). Examining the three heating products, DOE calculated NES and NPV for each efficiency level as the difference between a base-case forecast (without new standards) and the standards case forecast (with standards). DOE determined national annual energy consumption by multiplying the number of units in use (by vintage, which is expressed in years) by the average unit energy consumption (also by vintage). Cumulative energy savings are the sum of the annual NES determined over a specified time 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, retirement rates (based on estimated product lifetimes), and estimates of changes in shipments and retirement rates in response to changes in product costs due to standards. Chapter 10 of the preliminary TSD discusses the NIA.

DOE consulted with stakeholders and other interested persons 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. A complete and revised TSD will be made available upon issuance of a NOPR. The final rule will contain the final analysis results and be accompanied by a final rule TSD.

DOE 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. DOE is also interested

in receiving views concerning other relevant issues that participants believe would affect energy conservation standards for these products or that DOE should address in the NOPR.

Furthermore, DOE welcomes all interested parties, whether or not they participate in the public meeting, to submit in writing by March 16, 2009, comments and information on matters addressed in the preliminary TSD and on other matters relevant to consideration of standards for residential water heaters, direct heating equipment, and pool heaters.

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, DOE will consider all comments and additional information that is obtained from interested parties or through further analyses, and it will prepare a NOPR. The NOPR will include proposed energy conservation standards for the products 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 January 5, 2009.

**John F. Mizroch,**

*Acting Assistant Secretary, Energy Efficiency and Renewable Energy.*

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**BILLING CODE 6450-01-P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2009-0004; Directorate Identifier 2008-NM-160-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Series Airplanes**

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

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

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**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing