

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

#### 10 CFR Part 430

[Docket No. EE-RM-90-201]

RIN 1904-AA76

#### Energy Conservation Program for Consumer Products: Notice of Public Workshop on Residential Water Heater Energy Efficiency Standards Rulemaking

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

**ACTION:** Notice of public workshop.

**SUMMARY:** The Department of Energy (the Department or DOE) today gives notice that it will convene a public workshop to discuss the proposed analytical framework for evaluating possible revisions to the water heater energy efficiency standards. The objective of the workshop will be to discuss the methodology and approaches to be utilized throughout the water heater standards rulemaking process.

**DATES:** The public workshop will be held on Tuesday, June 24, 1997, from 9:00 a.m. to 4:00 p.m.

**ADDRESSES:** The workshop will be held at the U.S. Department of Energy, Room 1E-245, 1000 Independence Avenue, SW., Washington, DC 20585.

Copies of the transcript of the public workshop, public comments received, and this notice may be read at the DOE Freedom of Information Reading Room, U.S. DOE, Forrestal Building, Room 1E-190, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6020, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal

Building, Mail Station EE-43, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-0371.

Ms. Sandy Beall, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, Mail Station EE-43, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-7574.

**SUPPLEMENTARY INFORMATION:** In the preamble to the Department's final rule on procedures for consideration of new or revised energy conservation standards for consumer products published on July 15, 1996, DOE committed to revise the analysis of energy efficiency standards for water heaters and to issue a revised notice of proposed rulemaking. 61 FR 36973 (July 15, 1996). The water heater standards rulemaking has been designated a high priority by DOE as addressed in the Department's Regulatory Plan and the Unified Agenda. 61 FR 62043 and 62460 (November 29, 1996).

In continuing the work on possible revisions to energy efficiency standards on water heaters, the Department is convening a workshop to present and receive public comments on the proposed analytical approach for evaluating the water heaters standards. At this workshop the following will be discussed:

The Rulemaking Schedule  
The Analytical Framework (including the major components of the methodology and the relationships among the components)  
Issues for Analysis  
Analytical Methods and Tools (including the selection of engineering and economic analytical tools to be used on issues such as engineering analysis, national benefits forecast, manufacturer impact, and utility impacts)  
Data Requirements and Data Collection Methods  
Industry Characterization (including input on the present and past industry structure and market characteristics)  
Identification of Experts and Other Interested Parties (who can provide expert review of the results of the engineering and economic analyses)  
Identification of Qualifications for Contractors

The workshop will be held on Tuesday, June 24, 1997, at the U.S.

Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585-0121 in Room 1E-245 from 9:00 a.m. to 4:00 p.m. Further background on the approach to be followed in evaluating these standards is found in Appendix A of Subpart C of 10 Code of Federal Regulations (CFR) Part 430, see 61 FR 36973 (July 15, 1996) which outlines the planning and prioritization process, data collection and analysis, and decision making criteria.

The Department also welcomes written comments or recommendations on the process and the tools to be used for the water heater rulemaking. Written comments or recommendations should be submitted to Sandy Beall at the above listed address.

Copies of this notice, the workshop transcript, and any written comments will be available in the DOE Freedom of Information Reading Room.

Please notify Sandy Beall or Bryan Berringer at the above listed address if you intend to attend the workshop, if you wish to receive material prepared for the workshop, or if you wish to be added to the DOE mailing list for receipt of future notices and information concerning water heater matters relating to energy efficiency.

Issued in Washington, DC, on June 3, 1997.

**Joseph J. Romm,**

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

[FR Doc. 97-15105 Filed 6-9-97; 8:45 am]

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## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

#### 10 CFR Part 451

[Docket No. EE-NOI-97-301]

#### Renewable Energy Production Incentive Program

**AGENCY:** Department of Energy.

**ACTION:** Notice of Inquiry and public meeting and request for public comment.

**SUMMARY:** The Department of Energy (DOE) is publishing this Notice of Inquiry (NOI) to obtain information on possible changes to the Renewable Energy Production Incentive (REPI) program that will improve its

effectiveness as a financial incentive for the development of new qualifying renewable energy generation facilities.

**DATES:** Written comments (7 copies) will be considered if received at the address provided below no later than July 31, 1997. A public meeting will be held on July 15, 1997, beginning at 9:30 a.m., at the address listed below. Requests to speak must be received by the Department on or before July 11, 1997.

**ADDRESSES:** All written comments (7 copies) as well as requests to speak at the public meeting are to be submitted to: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE-10, Docket No. EE-NOI-97-301, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-3012. FAX comments will not be accepted. The comment and the envelope in which the required number of copies is mailed should be marked "Notice of Inquiry, Docket EE-NOI-97-301." The public meeting will be held at U.S. Department of Energy, Forrestal Building, Room 1E-245, 1000 Independence Avenue, SW., Washington, DC 20585. Copies of the transcript of the public meeting and public comments received may be read at the DOE Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E-190, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6020, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Robert H. Brewer, Office of Energy Efficiency and Renewable Energy, EE-10, U.S. Department of Energy, 1000 Independence Avenue, SW., Room 5H-021, Washington, DC 20585, (202) 586-2206. For information concerning the public meeting and submission of comments, contact Andi Kasarsky, (202) 586-3012.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

In this NOI, the DOE requests information on possible changes to the REPI program to improve its incentive value. The REPI program, which was established by the Energy Policy Act of 1992, is designed to provide a 10-year production incentive payment of 1.5 cents per kilowatt-hour (kWh), adjusted for inflation and subject to the availability of annual appropriations, to States or subdivisions of States or non-profit electric cooperatives, herein referred to as public power organizations, that own new or newly converted qualifying renewable energy generation facilities. Since the incentive

payments depend on the availability of annual appropriations, potential owners of qualifying renewable energy facilities are uncertain that future production incentive payments will be made. This uncertainty reduces the incentive value of the production incentive payments when decisions are being made concerning development of new renewable energy generation facilities.

To implement the REPI program, the Department issued a proposed rule on May 13, 1994 (59 FR 24982), and published a final rule on July 19, 1995 (60 FR 36959). This process has resulted in regulations codified at 10 CFR Part 451 (1997), which govern the implementation of the REPI program. In accordance with these regulations, the Department makes determinations on the eligibility of owners and facilities concerning incentive payments. The Department also reviews qualified applicants' annual submissions of net electricity produced from qualified facilities. Annual payments are made for this electric production, subject to the availability of annual appropriations. If there are insufficient appropriations to make full incentive payments, some or all applicants may receive either no payment or payment for only a portion of the net electricity produced by their facility, with the remainder designated as (unpaid) accrued energy. An applicant may submit a request for payment based on accrued energy in subsequent years within the allowed ten-fiscal year period for that facility.

Congressional appropriations have been sufficient to fully pay production incentives for net electricity produced by qualified facilities in fiscal year 1994 (payments of \$693,120) and in fiscal year 1995 (payments of \$2,398,472). Based on a review of applications for net electricity produced in fiscal year 1996, appropriations are insufficient to fully pay all qualifying applicants for the net electricity that their facility produced (\$2,490,893 is available for these payments). When appropriated funds are insufficient to fully pay all qualified applicants, a two-tier payment process, as described in 10 CFR Section 451.9(e) (1997), is used. Applications for payment have grown from seven for fiscal year 1994 production to eleven for fiscal year 1995 production to eighteen for fiscal year 1996 production.

The intended purpose of the REPI program is to provide a 10-year production incentive payment to public power organizations that would be fully considered in their decision to potentially select an eligible type of renewable energy generation system. However, public comment and subsequent stakeholder feedback reveal

that the REPI production incentive payments are either not valued or are undervalued during the decision-making process, since they are dependent upon annual appropriations. The following excerpt is from the discussion of comments in the final rule for the REPI program: "Several of the commenters who recommended a 10-year escrow account argued that potential investors in new renewable energy facilities are unlikely to take account of payments under this program in assessing an investment without assurances, at the time of investment, that the full schedule of payments would be made. DOE believes this argument has merit. However, additional work by DOE and its stakeholders is needed to develop a payout approach that will maximize the effectiveness of the program as an incentive for promoting incremental investment in new renewable energy facilities. DOE intends to publish a notice in the near future that invites suggestions from interested persons regarding possible program modifications, including possible statutory or regulatory changes, that can increase the incentive value of this effort." 60 FR 36963 (1995). This NOI is that notice.

Representatives of public power organizations have stated that an effective REPI program can become the single most important incentive mechanism available to them for encouraging investment in new renewable energy generation facilities. Various commenters have suggested a few options that they believe would lead to the full valuation of the 10-year REPI production incentive payments in the decisions by public power organizations to acquire and operate new renewable energy generation facilities. These suggested changes would require either regulatory or statutory change. One suggestion, which would require changing the existing regulations, is the use of annual REPI appropriations to establish a "10-year escrow account" to fully fund the incentive payments for the estimated amount of net generation over the eligible ten-year period. Because of the ten-year commitment, fewer qualified facilities would receive funding for a given year's appropriation, which might necessitate a prioritization procedure to fully fund qualified facilities. Possible priority procedures for funding qualified facilities could be based on either the facility startup date or the date an application for the facility is received. Another suggestion, which would require statutory change, is the

establishment of a trust fund account for REPI payments that would be funded by accelerated appropriations, other revenue sources (such as a line charge or wire charge), or a combination of both. The third suggestion, which would also require statutory change, is to allow public power entities to pass on the incentive payment over the 10-year payment period as a tax credit to customers who agree to purchase, potentially under a separate rate schedule, the electricity from a qualified renewable energy facility. In this NOI, DOE seeks comment on these options and other appropriate options that may improve the incentive value of the REPI program.

#### Issues for Public Comment

With respect to potential changes to the REPI program that would enhance the incentive effect of REPI payments in the decision-making of public power organizations concerning development of new renewable energy generation facilities, DOE seeks the following information:

(1) Recommendations regarding changes to the REPI program that would enhance the value of the production incentive payments in development decisions. Please specify what regulatory or statutory changes, if any, would be required for each recommendation.

(2) Discussion of how these changes would enhance the value of production incentive payments in development decisions.

(3) To the extent meaningful information can be provided, estimates of the amount of additional renewable energy generation (in megawatts capacity installed) that might begin operation by September 30, 2003, if these recommended changes are implemented.

#### Opportunities for Public Comment

##### A. Written Comment Procedures

Interested persons are invited to respond to this notice by submitting their ideas and views concerning options for modifying the REPI program so that the full value of its 10-year production incentive payments is considered in the decisions by public power organizations to acquire and operate new renewable energy generation facilities. Seven copies of each comment should be submitted to the Office of Energy Efficiency and Renewable Energy in compliance with the instructions set forth above in the **DATES** and **ADDRESSES** section of this notice.

##### B. Public Meeting

A public meeting on the NOI will be held at the time and place indicated in the **DATES** and **ADDRESSES** Section of this notice. To request an opportunity to speak at the public meeting, please use the phone number indicated at the beginning of this notice. The person should provide a phone number where he or she may be reached during the day. Each potential speaker will be notified by DOE as to the approximate time they will be speaking. Seven copies of the speaker's statement should be submitted at the beginning of the meeting. In the event any person wishing to speak cannot meet this requirement, alternative arrangements can be made in advance with DOE.

A transcript of the meeting will be made by DOE. It will be on file for inspection at the DOE Freedom of Information Reading Room at the address indicated at the beginning of this notice.

If DOE must cancel the public meeting, DOE will make every effort to publish an advance notice of such cancellation in the **Federal Register**. Actual notice of cancellation will also be given to all persons scheduled to speak. The meeting date may be canceled in the event no member of the public requests the opportunity to make an oral presentation.

Issued in Washington, DC, on June 4, 1997.

**Joseph J. Romm,**

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

[FR Doc. 97-15106 Filed 6-9-97; 8:45 am]

BILLING CODE 6450-01-P

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 261

[Docket No. R-0975]

#### Rules Regarding Availability of Information

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Proposed rule.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) hereby proposes to amend its Rules Regarding Availability of Information (Rules) to reflect recent changes in the Freedom of Information Act (FOIA) as a result of the Electronic Freedom of Information Act Amendments (EFOIA). In order to account for future amendments to the Rules, the sections have been renumbered.

The review of the Board's Rules that produced this proposal was conducted

in accordance with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994. In this regard, the amendments to the Rules clarify certain provisions and simplify the processing of requests for access to information in certain circumstances. For example, the amendments conform the language of the Rules to changes in the law.

**DATES:** Comments must be submitted on or before July 25, 1997.

**ADDRESSES:** Comments, which should refer to Docket No. R-0975, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. Comments addressed to Mr. Wiles also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. The mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments may be inspected in Room MP-500 between 9:00 a.m. and 5:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Boutilier, Senior Counsel, (202/452-2418), Legal Division; or Susanne K. Mitchell, Manager, Freedom of Information Office (202/452-2407). For the hearing impaired *only*, contact Diane Jenkins, Telecommunications Device for the Deaf (TDD) (202/452-3544), Board of Governors of the Federal Reserve System, 20th and Constitution, N.W., Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:** Last year, Congress passed the Electronic Freedom of Information Act Amendments of 1996, Public Law 104-231, which amends the Freedom of Information Act, 5 U.S.C. 552. Among other things, EFOIA requires agencies to promulgate regulations that provide for expedited processing of requests for records, and permits agencies to promulgate regulations that provide for multitrack processing of requests. In addition to proposing appropriate amendments to its Rules to comply with EFOIA, the Board has taken this opportunity, in accordance with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, to review and streamline those Rules.<sup>1</sup>

In addition, the Board is proposing to amend the Rules to take account of various statutes that have been enacted since the Rules were last revised in

<sup>1</sup> The regulatory citations contained in this proposed rule refer to the proposed regulation herein, rather than to the existing regulation. As noted above, the sections have been renumbered.