

DEPARTMENT OF ENERGY

10 CFR Chs. II, III, and X

48 CFR Ch. 9

Fall 2017 Unified Agenda of Regulatory and Deregulatory Actions

AGENCY: Department of Energy.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Energy (DOE) has prepared and is making available its portion of the semiannual Unified Agenda of Federal Regulatory and Deregulatory Actions (Agenda), including its Regulatory Plan (Plan), pursuant to Executive Order 12866, “Regulatory Planning and Review,” and the Regulatory Flexibility Act.

SUPPLEMENTARY INFORMATION: The Agenda is a government-wide

compilation of upcoming and ongoing regulatory activity, including a brief description of each rulemaking and a timetable for action. The Agenda also includes a list of regulatory actions completed since publication of the last Agenda. The Department of Energy’s portion of the Agenda includes regulatory actions called for by statute, including amendments contained in the Energy Independence and Security Act of 2007 and the American Energy Manufacturing Technical Corrections Act, and programmatic needs of DOE offices.

The internet is the basic means for disseminating the Agenda and providing users the ability to obtain information from the Agenda database. DOE’s entire Fall 2017 Agenda can be accessed online by going to www.reginfo.gov.

Publication in the **Federal Register** is mandated by the Regulatory Flexibility Act (5 U.S.C. 602) only for Agenda entries that require either a regulatory flexibility analysis or periodic review under section 610 of that Act. DOE’s regulatory flexibility agenda is made up of two rulemakings that will set energy conservation standards for the following products:

- General Service Fluorescent Lamps (1904–AD09).
- Residential Conventional Cooking Products (1904–AD15).

The Plan appears in both the online Agenda and the **Federal Register** and includes the most important of DOE’s significant regulatory actions and a Statement of Regulatory and Deregulatory Priorities.

John T. Lucas,
Acting, General Counsel.

ENERGY EFFICIENCY AND RENEWABLE ENERGY—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
217	Modifying the Energy Conservation Program to Implement a Market-Based Approach	1904–AE11

ENERGY EFFICIENCY AND RENEWABLE ENERGY—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
218	Energy Conservation Standards and Definition for General Service Lamps (Reg Plan Seq No. 23)	1904–AD09
219	Energy Conservation Standards for Residential Conventional Cooking Products (Reg Plan Seq No. 24) ..	1904–AD15

References in boldface appear in The Regulatory Plan in part II of this issue of the FEDERAL REGISTER.

ENERGY EFFICIENCY AND RENEWABLE ENERGY—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
220	Energy Conservation Standards for Commercial Packaged Boilers	1904–AD01
221	Energy Conservation Standards for Residential Non-Weatherized Gas Furnaces and Mobile Home Gas Furnaces.	1904–AD20
222	Energy Conservation Standards for Commercial Water Heating Equipment	1904–AD34

ENERGY EFFICIENCY AND RENEWABLE ENERGY—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
223	Energy Conservation Standards for Walk-In Coolers and Walk-In Freezers	1904–AD59
224	Energy Conservation Program: Test Procedures for Central Air Conditioners and Heat Pumps	1904–AD71
225	Energy Conservation Program: Test Procedures for Walk-In Cooler and Freezer Refrigeration Systems	1904–AD72

DEPARTMENTAL AND OTHERS—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
226	Small-Scale Natural Gas Exports (Section 610 Review)	1901–AB43

DEPARTMENT OF ENERGY (DOE)

Energy Efficiency and Renewable Energy (EE)

Prerule Stage

217. Modifying the Energy Conservation Program to Implement a Market-Based Approach

E.O. 13771 Designation: Deregulatory.
Legal Authority: 42 U.S.C. 6291
Abstract: The U.S. Department of Energy (DOE) is evaluating the potential use of some form of a market-based approach such as an averaging, trading, fee-base or other type of market-based policy mechanism for the U.S. Appliance and Equipment Energy Conservation Standards (ECS) program.
Timetable:

Action	Date	FR Cite
Request for Information.	12/00/17	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: John Cymbalsky, Building Technologies Office, EE-5B, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW, Washington, DC 20585, *Phone:* 202 287-1692, *Email:* john.cymbalsky@ee.doe.gov.
RIN: 1904-AE11

DEPARTMENT OF ENERGY (DOE)

Energy Efficiency and Renewable Energy (EE)

Proposed Rule Stage

218. Energy Conservation Standards and Definition For General Service Lamps

Regulatory Plan: This entry is Seq. No. 23 in part II of this issue of the **Federal Register**.
RIN: 1904-AD09

219. Energy Conservation Standards for Residential Conventional Cooking Products

Regulatory Plan: This entry is Seq. No. 24 in part II of this issue of the **Federal Register**.
RIN: 1904-AD15

DEPARTMENT OF ENERGY (DOE)

Energy Efficiency and Renewable Energy (EE)

Long-Term Actions

220. Energy Conservation Standards for Commercial Packaged Boilers

E.O. 13771 Designation: Other.

Legal Authority: 42 U.S.C. 6313(a)(6)(C); 42 U.S.C. 6311(11)(B)

Abstract: EPCA, as amended by AEMTCA, requires the Secretary to determine whether updating the statutory energy conservation standards for commercial packaged boilers is technically feasible and economically justified and would save a significant amount of energy. If justified, the Secretary will issue amended energy conservation standards for such equipment. DOE last updated the standards for commercial packaged boilers on July 22, 2009. DOE issued a NOPR pursuant to the 6-year-look-back requirement on March 24, 2016. Under EPCA, DOE has two years to issue a final rule after publication of the NOPR.

Timetable:

Action	Date	FR Cite
Notice of Proposed Determination (NOPD).	08/13/13	78 FR 49202
NOPD Comment Period End.	09/12/13	
Notice of Public Meeting and Framework Document Availability.	09/03/13	78 FR 54197
Framework Document Comment Period End.	10/18/13	
Notice of Public Meeting and Preliminary Analysis.	11/20/14	79 FR 69066
Preliminary Analysis Comment Period End.	01/20/15	
Withdrawal of NOPD.	08/25/15	80 FR 51487
NPRM	03/24/16	81 FR 15836
NPRM Comment Period End.	05/23/16	
NPRM Comment Period Extended.	05/04/16	81 FR 26747
NPRM Comment Period Extended End.	06/22/16	
Next Action Undetermined.	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: James Raba, *Phone:* 202 586-8654, *Email:* jim.raba@ee.doe.gov.
RIN: 1904-AD01

221. Energy Conservation Standards for Residential Non-Weatherized Gas Furnaces and Mobile Home Gas Furnaces

E.O. 13771 Designation: Regulatory.

Legal Authority: 42 U.S.C. 6295(f)(4)(C); 42 U.S.C. 6295(m)(1); 42 U.S.C. 6295(gg)(3)

Abstract: The Energy Policy and Conservation Act of 1975 (EPCA), as amended, prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including residential furnaces. EPCA also requires the DOE to periodically determine every six years whether more-stringent amended standards would be technologically feasible and economically justified and would save a significant amount of energy. DOE is considering amendments to its energy conservation standards for residential non-weatherized gas furnaces and mobile home gas furnaces in partial fulfillment of a court-ordered remand of DOE's 2011 rulemaking for these products. DOE published a supplemental notice of proposed rulemaking on September 23, 2016.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting.	10/30/14	79 FR 64517
NPRM and Notice of Public Meeting.	03/12/15	80 FR 13120
NPRM Comment Period Extended.	05/20/15	80 FR 28851
NPRM Comment Period Extended End.	07/10/15	
Notice of Data Availability (NODA).	09/14/15	80 FR 55038
NODA Comment Period End.	10/14/15	
NODA Comment Period Reopened.	10/23/15	80 FR 64370
NODA Comment Period Reopened End.	11/06/15	
Supplemental NPRM and Notice of Public Meeting.	09/23/16	81 FR 65720
Supplemental NPRM Comment Period End.	11/22/16	
SNPRM Comment Period Reopened.	12/05/16	81 FR 87493
SNPRM Comment Period End.	01/06/17	
Next Action Undetermined.	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: John Cymbalsky, *Phone:* 202 287-1692, *Email:* john.cymbalsky@ee.doe.gov.

RIN: 1904-AD20

222. Energy Conservation Standards for Commercial Water Heating Equipment

E.O. 13771 Designation: Regulatory.
Legal Authority: 42 U.S.C. 6313(a)(6)(C)(i) and (vi)

Abstract: Once completed, this rulemaking will fulfill DOE’s statutory obligation under EPCA to either propose amended energy conservation standards for commercial water heaters and hot water supply boilers, or determine that the existing standards do not need to be amended. (Unfired hot water storage tanks and commercial heat pump water heaters are being considered in a separate rulemaking.) DOE must determine whether national standards more stringent than those that are currently in place would result in a significant additional amount of energy savings and whether such amended national standards would be technologically feasible and economically justified.

Timetable:

Action	Date	FR Cite
Request for Information (RFI).	10/21/14	79 FR 62899
RFI Comment Period End.	11/20/14	
NPRM	05/31/16	81 FR 34440
NPRM Comment Period End.	08/01/16	
NPRM Comment Period Re-opened.	08/05/16	81 FR 51812
NPRM Comment Period Re-opened End.	08/30/16	
Notice of Data Availability (NODA).	12/23/16	81 FR 94234
NODA Comment Period End.	01/09/17	
Next Action Undetermined.	To Be Determined	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Catherine Rivest,
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catherine.rivest@ee.doe.gov.

RIN: 1904-AD34

DEPARTMENT OF ENERGY (DOE)

Energy Efficiency and Renewable Energy (EE)

Completed Actions

223. Energy Conservation Standards for Walk-In Coolers And Walk-In Freezers

E.O. 13771 Designation: Regulatory.
Legal Authority: 42 U.S.C. 6311; 42 U.S.C. 6313(f)

Abstract: In 2014, the Department of Energy (DOE) issued a rule setting performance-based energy conservation standards for a variety of walk-in cooler and freezer (walk-in) components. See 79 FR 32050 (June 3, 2014). That rule was challenged by a group of walk-in refrigeration system manufacturers and walk-in installers, which led to a settlement agreement regarding certain refrigeration equipment classes addressed in that 2014 rule and certain aspects related to that rule’s analysis. See *Lennox Int’l v. DOE*, Case No. 14-60535 (5th Cir. 2014). Consistent with the settlement agreement, and in accordance with the Federal Advisory Committee Act, a working group was established under the Appliance Standards and Rulemaking Advisory Committee (ASRAC) to engage in a negotiated rulemaking to develop energy conservation standards to replace those that had been vacated by the U.S. Court of Appeals for the Fifth Circuit. As a result of those negotiations, a Term Sheet was produced containing a series of recommendations to ASRAC for its approval and submission to DOE for the agency’s further consideration. Using the Term Sheet’s recommendations, DOE is establishing energy conservation standards for the six equipment classes of walk-in coolers and walk-in freezers that were vacated by the Fifth Circuit and remanded to DOE for further action. Those standards at issue involve: (1) The two standards applicable to multiplex condensing refrigeration systems operating at medium and low temperatures; and (2) the four standards applicable to dedicated condensing refrigeration systems operating at low temperatures. Also consistent with the settlement agreement, DOE explicitly considered the potential impacts of these six standards on installers. DOE also considered and addressed the potential impacts of these six standards on installers in its Manufacturer Impact Analysis, consistent with its regulatory definition of “manufacturer,” and, as appropriate, in its analysis of impacts on small entities under the Regulatory Flexibility Act. As part of this rulemaking (and consistent with its obligations under the settlement agreement), DOE provided an opportunity for all interested parties to submit comments concerning any proposed standards.

Completed:

Reason	Date	FR Cite
Final Action	07/10/17	82 FR 31808

Reason	Date	FR Cite
Final Action Effective.	09/08/17	

Regulatory Flexibility Analysis
Required: Yes.

Agency Contact: John Cymbalsky,
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john.cymbalsky@ee.doe.gov.

RIN: 1904-AD59

224. Energy Conservation Program: Test Procedures for Central Air Conditioners and Heat Pumps

E.O. 13771 Designation: Other.

Legal Authority: 42 U.S.C. 6291 *et seq.*

Abstract: This rulemaking pertaining to test procedures for Central Air Conditioners and Heat Pumps includes revisions to the test methods to improve test repeatability and reduce the test burden of the test procedure. These revisions will be required for demonstration of compliance with the current energy conservation standards starting 180 days after publication of the final rule. These amendments include:

(1) Establishing a delay time prior to off mode power measurements for some systems and limiting the internal volume of refrigerant pressure measurement lines; (2) requiring bin-by-bin EER and COP interpolations for all variable speed units; (3) requiring that the official test for a unit using the outdoor enthalpy method as a secondary check of capacity be the test without the outdoor enthalpy apparatus connected.

DOE is also amending the test procedure to improve field representativeness. These amendments will take effect coincident with updated energy conservation standards and would be part of a new Appendix M1. The new Appendix M1 includes: (1) New higher external static pressure requirements for all units, including unique minimum external static pressure requirements for certain kinds of products; (2) new default fan power values for rating coil-only units; revisions to the heating load line in the calculation of HSPF; and (3) amendments to the test procedures for variable speed heat pumps to allow better representation of their low-ambient-temperature performance, including an optional 5 °F heating mode test.

Completed:

Reason	Date	FR Cite
Final Rule Effective.	07/08/17	
Final Rule; Delay of Effective Date.	02/02/17	82 FR 8985

Reason	Date	FR Cite
Final Rule; Delay of Effective Date Effective.	03/21/17	
Final Rule; Further Delay of Effective Date.	03/21/17	82 FR 14425
Final Rule; Correction to Delayed Effective Date.	03/29/17	82 FR 15457
Final Rule; Further Delay of Effective Date Effective.	07/03/17	

in cooler and freezer equipment, and establishing labeling requirements that will aid manufacturers in determining which components would be considered for compliance purposes as intended for walk-in cooler and freezer applications. The rule also adds certain equipment-specific definitions, removes the test method for refrigeration systems with hot gas defrost, and includes a method to accommodate refrigeration equipment that use adaptive defrost and on-cycle variable-speed evaporator fan control.

Completed:

Legal Authority: 15 U.S.C. 717b(a); 42 U.S.C. 7151(b), 7172(f), and 7254

Abstract: This rule would revise DOE regulations implementing section 3(a) of the Natural Gas Act, 15 U.S.C. 717b(a), for “qualifying small-scale” exports of natural gas, including liquefied natural gas. Under this rule, DOE would issue an order upon receipt of any application that seeks to export natural gas to non-FTA countries, provided the application meets the criteria for small-scale exports. In promulgating this rule, DOE would clarify its interpretation of “public interest” under NGA section 3(a). The intent of the rule is to improve DOE’s application procedures related to natural gas exports, reduce the administrative burdens associated with the small-scale natural gas export market, and result in more efficient processing of applications for small-scale natural gas exports.

Timetable:

Action	Date	FR Cite
NPRM	09/01/17	82 FR 41570
NPRM Comment Period End.	10/16/17	
Final Action	02/00/18	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Ashley Armstrong, *Phone:* 202 586–6590, *Email:* ashley.armstrong@ee.doe.gov, *RIN:* 1904–AD71

225. Energy Conservation Program: Test Procedures for Walk-In Cooler and Freezer Refrigeration Systems

E.O. 13771 Designation: Other.

Legal Authority: 42 U.S.C. 6311 *et seq.*

Abstract: DOE established a Working

Group to negotiate amended energy conservation standards for six classes of walk-in cooler and freezer (walk-in) refrigeration systems. After holding a series of meetings as part of a negotiated rulemaking, the Working Group developed a Term Sheet containing a series of recommendations regarding potential energy conservation standards for these refrigeration systems and the current test procedure for evaluating the energy efficiency of a walk-in refrigeration system. This rulemaking proposed several test procedure amendments to implement these recommendations. These amendments include certain changes to improve test procedure clarity, updating related certification and enforcement provisions to address the performance-based energy conservation standards for walk-

Reason	Date	FR Cite
Final Rule	12/28/16	81 FR 95758
Final Rule Effective.	01/27/17	
Final Rule; Delay of Effective Date.	03/21/17	82 FR 8805
Final Rule; Delay of Effective Date Effective.	03/21/17	
Final Rule; Further Delay of Effective Date.	03/21/17	82 FR 14426
Final Rule; Further Delay of Effective Date Effective.	06/26/17	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Ashley Armstrong, *Phone:* 202 586–6590, *Email:* ashley.armstrong@ee.doe.gov, *RIN:* 1904–AD72

DEPARTMENT OF ENERGY (DOE)

Departmental and Others (ENDEP)

Final Rule Stage

226. Small-Scale Natural Gas Exports (Section 610 Review)

E.O. 13771 Designation: Deregulatory.

Regulatory Flexibility Analysis

Required: No.

Agency Contact: Betsy Kohl, Attorney Advisor, Department of Energy, 1000 Independence Avenue SW, Room 6A–179, Washington, DC 20585, *Phone:* 202 586–7796, *Email:* elizabeth.kohl@hq.doe.gov.

RIN: 1901–AB43

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