Life-Cycle-Cost: The Department plans to demonstrate a new life-cycle-cost spreadsheet model which can account for variability of key criteria, such as utility rates and water heater fuel type.

Shipment Forecasts: The Department will present a base-line shipment forecast for stakeholder review. This forecast will incorporate expected improvement in efficiencies as a result of market forces or voluntary programs and how the distribution of efficiency impacts different consumers.

Energy Savings Forecasts: The Department will present an example of energy savings forecasting results using a simple spreadsheet to show how the growth in efficiency can be accounted for over time.

Identification of Experts and Other Interested Parties for Peer Review: The Department wishes to identify a group of independent experts and other interested parties who can provide expert review of the results of the engineering and economic analyses.

Background on the approach to be followed in evaluating clothes washer standards is found in Appendix A of Subpart C of 10 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. Information pertaining to this rulemaking include the following: An Advance Notice of Proposed Rulemaking to Amend the Energy Conservation Standards for Three Cleaning Products, published on November 14, 1994 (59 FR 56423), and comments thereon; Draft Report on the Preliminary Engineering Analysis for Clothes Washers; Draft Report on Design Options for Clothes Washers; and the transcript from the November 15, 1996, Workshop and comments relating to the workshop. Copies of these may be read at the DOE Freedom of Information Reading Room.

The Department also welcomes written comments or recommendations on the process and the tools to be used for the clothes washers rulemaking. Written comments or recommendations should be submitted to Sandy Beall at the address listed in the **FOR FURTHER INFORMATION CONTACT** section.

Please notify Sandy Beall or Qonnie Laughlin at the address listed in the **FOR FURTHER INFORMATION CONTACT** section if you intend to attend the workshop, if you wish to receive material prepared for the workshop (including the draft analytical framework), or if you wish to be added to the DOE mailing list for receipt of future notices and information concerning clothes washers matters relating to energy efficiency.

Issued in Washington, DC, on June 27, 1997.

Brian T. Castelli,

Chief of Staff, Energy Efficiency and Renewable Energy.

[FR Doc. 97–17483 Filed 7–2–97; 8:45 am]

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DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 451

Renewable Energy Production Incentives

AGENCY: Office of Energy Efficiency and Renewable Energy, DOE

ACTION: Interpretations and request for comments.

SUMMARY: The Office of Energy Efficiency and Renewable Energy in the Department of Energy today is publishing ''Questions and Answers Regarding Renewable Energy Production Incentives,'' to provide clarification to owners or operators of renewable energy facilities who would like to apply for renewable production incentive payments. The intent of these Questions and Answers is to assist applicants and potential applicants in their understanding of requirements that must be met to receive incentive payments under the program and of program procedures.

DATES: Public comment is invited on a continuing basis.

ADDRESSES: Questions and comments may be sent to James Spaeth, U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401.

FOR FURTHER INFORMATION CONTACT: James Spaeth, U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401, (303) 275–4706.

SUPPLEMENTARY INFORMATION:

Background

Section 1212 of the Energy Policy Act of 1992, 42 U.S.C. 13317, requires the Department of Energy (DOE), subject to the availability of appropriations, to make incentive payments to the owners or operators of qualified renewable energy facilities for the production and sale of electric energy from certain renewable energy sources. DOE promulgated implementing regulations on July 19, 1995 (60 FR 36959), which subsequently were codified in 10 CFR Part 451. Although the renewable energy production incentive (REPI) program generally has operated smoothly, DOE staff is frequently asked questions by the public about eligibility for production incentives and administrative details of the program. DOE staff has prepared this set of Questions and Answers to address topics that are frequently the subject of questions, and to provide informal guidance on program administration to prospective applicants for renewable energy production incentives. DOE will revise the Questions and Answers from time to time if further experience under the program or public comments show the need for such revision.

Format of the Questions and Answers

Questions and answers are grouped by the provision of the REPI regulations that they explicate and are presented in the same order as the regulatory provisions.

The text of the Questions and Answers follows:

Questions and Answers Regarding Renewable Energy Production Incentives

Questions About 10 CFR 451.2 Definitions

Q1. Who is the ''DOE Deciding Official'' responsible for acting on applications for REPI payments?

A1. Section 451.2 defines ''Deciding Official'' to mean ''the Assistant Secretary for Energy Efficiency and Renewable Energy (or any DOE official to whom the authority of the Assistant Secretary may be redelegated by the Secretary of Energy).'' On July 26, 1996, the Secretary of Energy delegated the authority of the Deciding Official to the Manager, Golden Field Office, Golden, Colorado (Delegation Order No. 0204–159). This delegation places full responsibility for administering the REPI Program with the Golden Field Office. However, this delegation does not affect the non-delegable responsibility of the Assistant Secretary for Energy Efficiency and Renewable Energy, under Section 451.9(e), to determine the extent to which appropriated funds are available for obligation under this program for each fiscal year.

Q2. What constitutes a ''renewable energy facility'' for purposes of establishing eligibility for REPI payments?

A2. Any owner of a qualified renewable energy facility, or any operator of such facility with the owner's written consent, may apply for REPI payments for net electric energy generated for sale from a renewable energy source. Section 451.2 defines ''renewable energy facility'' to mean a

single module or unit, or an aggregation of such units, that generates electric energy which is independently metered and which results from the utilization of a renewable energy source. In the notice of proposed rulemaking for Part 451, DOE proposed defining ''renewable energy facility'' to mean the systems or components of facilities generating electricity from renewable energy sources (59 FR 24982 (May 13,1994)). In the preamble for that notice, DOE stated that it interpreted the term to include mostly equipment, and not the land on which the facility is located or, in the case of geothermal facilities, the geothermal field. In response to public comment, DOE modified the definition to clarify that a single module or unit of a larger facility (*e.g.*, a wind turbine and its tower and supporting pad) could constitute a ''renewable energy facility'' under the REPI program. Although the list of systems or components for various types of renewable energy facilities was omitted in the final definition, DOE did not intend by that change to alter its view that ''renewable energy facility'' includes mostly equipment that is used to produce electric energy from a renewable energy source. The following guidance is consistent with these previous interpretations:

- DOE does not consider the land on which the facility is located to be part of the renewable energy facility.
- For geothermal facilities, DOE does not consider the wells and associated equipment normally required to extract heat energy from the earth to be part of the facility.
- For facilities based on closed loop biomass, agricultural waste, or animal waste, DOE does not consider the biomass farm or forest and associated growing biomass or animals to be part of the facility.
- For landfill gas facilities, DOE does not consider the landfill and the gas collection and distribution system to be part of the facility.

Q3. Could a renewable energy capacity addition to an existing qualified facility ever constitute a separate qualified ''renewable energy facility''?

A3. Yes. The definition of ''renewable energy facility'' in Section 451.2 does not explicitly address whether a capacity addition made to a qualified renewable energy facility that is already generating electricity for sale is eligible for annual REPI payments. The Department will permit an owner or operator of a qualified renewable energy facility to submit a separate annual application for a renewable energy capacity addition if it meets all of the criteria in the definition of ''renewable energy facility,'' i.e., it consists of a module or unit, or aggregation of such units, that generates electricity which is independently metered and sold, and which results from the utilization of a renewable energy source. Each year's renewable energy capacity addition to an existing facility for which the owner or operator elects to submit a separate application will be allowed a 10-year eligibility period for REPI payment. The first year of energy qualification for such payment will begin with the fiscal year in which the new capacity addition first begins to generate electricity for sale.

Question About 10 CFR 451.4 What is a Qualified Renewable Energy Facility?

Q1. How does DOE interpret the statutory phrase ''for sale in, or affecting, interstate commerce'' in determining whether electricity generated and sold by a renewable energy facility qualifies for REPI payments?

A1. Section 1212 of the Energy Policy Act requires a qualified renewable energy facility to generate electric energy for sale in, or affecting, interstate commerce (42 U.S.C. 13317(b)). DOE has interpreted the statutory phrase to mean that ''the net electric energy generated by the renewable energy facility must be sold to another entity for consideration.'' DOE interprets Section 451.4c to allow a transaction between related parties to satisfy this requirement.

Question About 10 CFR 451.5 Where and When to Apply

Q1. Would a public utility organization planning to construct or acquire a renewable electric generation facility obtain any benefits from submitting a pre-application to DOE as provided in its rules?

A1. Section 451.5(a)(1) creates a voluntary pre-application process which organizations contemplating the construction or acquisition of a renewable electric generation facility may use to obtain from DOE a written preliminary and conditional determination on: (1) whether the contemplated project would be eligible to receive a REPI payment and (2) whether the project would qualify as a facility using technologies as defined in Section 451.9(e)(1), that is solar, wind, geothermal, or closed-loop biomass technologies, or as a facility using technologies defined in Section 451.9(e)(2), i.e., all other qualified renewable energy technologies. The technology distinction is used for purposes of priority in receiving incentive payments if funds are not available to make full payments for all approved applications in any year. This preliminary determination can reduce uncertainty regarding project qualification and, if available in the early stages of decision making, will allow an organization to make more informed decisions. Although few pre-applications have been received to date, the Department believes the pre-application process can benefit an organization considering the construction or acquisition of a renewable electric generation facility. A pre-application may be submitted at any time and must contain the information described in Section 451.8 (a) through (e). DOE will request an organization submitting a pre-application to include an estimate of the facility's expected annual electricity generation in kilowatt-hours (kWh). The estimate will be used by DOE to forecast the REPI funds that would be needed if the project were implemented.

Q2. Should a public utility organization which has decided to construct a renewable electric generation facility voluntarily notify DOE of its decision?

A2. Section 451.5(a)(2) establishes a voluntary notification process to assist DOE in developing its annual REPI program budget requests. A notification is a one-time notice to the Department that a prospective owner or operator has decided to construct a facility. The notification alerts the Department that a new facility is expected to begin to produce energy at a future date and that the output energy is likely to qualify for REPI payments. The notification should include the information described in Section 451.8(a) through (e) and an estimate of the facility's expected annual electric generation in kilowatt-hours (kWh). Although few REPI program participants have provided voluntary notification, the Department encourages its use because the notification, together with the pre-application, will provide the Department a sounder basis for projecting funding requirements and seeking annual appropriations for the program.

Question About 10 CFR 451.6 Duration of Incentive Payments

Q1. What constitutes the 10-year REPI payment period specified in the Energy Policy Act?

A1. Consistent with section 1212 of the Energy Policy Act, Section 451.6 states that DOE shall make incentive payments for 10 fiscal years, subject to the availability of appropriated funds. A REPI payment is made for the net generation and sale of electricity from a

qualified renewable energy facility that occurred in the previous fiscal year. The first year in which electricity is generated for sale from this facility and the 9 subsequent fiscal years constitute the 10 fiscal years of net electric generation and sale that are eligible for a REPI payment. Another provision of the Department's regulations, Section 451.5(b)(3), provides that failure to file an application within the first quarter (October 1 through December 31) of any fiscal year for payment of net energy generated and sold in the prior fiscal year will result in the loss of eligibility for a REPI payment for energy generated and sold in that prior fiscal year.

Questions About 10 CFR 451.8 Application Content Requirements

Q1. Will DOE require an applicant for REPI payments to describe the specific components of the renewable energy facility for which it requests payment?

A1. Yes. An applicant is required to explain how it satisfies the requirements of a qualified renewable energy facility, and a ''renewable energy facility'' is defined to mean a single module or unit, or an aggregation of such units, that generate electricity which is independently metered and which results from the utilization of a renewable energy source. The Department will require applicants to include, as part of the application statement, a brief description of the key renewable energy system components (including component manufacturer) used to convert the renewable resource to electricity.

Q2. What steps must an applicant take to prepare a statement of the annual and monthly metered net electric energy generated and sold during the prior fiscal year by the qualified renewable energy facility?

A2. Section 451.8(f) requires that applications contain a statement of the annual and monthly metered net electric energy generated and sold during the prior fiscal year by the qualified renewable energy facility for which an incentive payment is requested. To reduce the need for supplemental submissions, and the resulting delay in payments, DOE will expect applicants to follow these procedures for obtaining monthly and annual meter readings:

(1) Meter readings should be taken on the last calendar day of each month, if feasible.

(2) When it is not feasible to take readings on the last calendar day of the month, DOE will permit the use of other intervals of approximately 30 days, provided the applicant includes the date of each meter reading and the net electric energy generated and sold during the period between meter readings.

(3) If a meter reading is not obtained on the first and last days of a fiscal year for which incentive payments are requested, the applicant must document the method it used to calculate the electric energy claimed for payment in the first and last months of that fiscal year.

Q3. Can DOE make REPI payments by issuing a check to the applicant?

A3. No. Although Section 451.8(j) includes payment by check as a preferred payment method, that payment option is no longer available to DOE. Public Law 104–134 requires that virtually all Federal payments be made via electronic funds transfer beginning on July 26, 1996. Applicants should include transfer instructions with REPI applications or complete OMB Form SF–3881, Automated Clearance House (ACH) Vendor/Miscellaneous Payment Enrollment, available from the Department of Energy Golden Field Office.

Question About 10 CFR 451.9 Procedures for Processing Applications

Q1. How will DOE handle applications for REPI payments if available appropriated funds are insufficient to make full payments for all approved applications for a specific year?

A1. Section 451.9(e) contains the procedures that DOE will implement if available appropriated funds are insufficient to make full payments for all approved applications for a specific year. Insufficient funds may result in some qualified applicants receiving either no incentive payment or a partial incentive payment on a pro rata basis. If a qualified applicant receives no incentive payment due to insufficient funds, then all of the net electricity produced for sale in kilowatt-hours would be considered accrued energy. If a qualified applicant receives a partial incentive payment on a pro rata basis, an associated portion of the net electricity produced for sale in kilowatt-hours would be considered to have received a full incentive payment and the remainder of the net electricity produced for sale in kilowatt-hours would be considered to be accrued energy. For example, if a qualified applicant's net electric production for sale for the year was 1,000,000 kilowatt hours and due to insufficient funds only 80 percent of the incentive payment could be paid on a pro rata basis, then 800,000 kilowatt-hours would receive a full incentive payment and 200,000 kilowatt-hours would be considered to be accrued energy. If an applicant seeks an incentive payment for accrued energy in a subsequent year, the applicant needs to specifically request payment for this amount of accrued energy in the subsequent year's application. If an applicant fails to specifically request payment for this amount of accrued energy in a subsequent year's application, the accrued energy will not be considered for payment that year. Accrued energy (quantified in kilowatt-hours) that is submitted in a subsequent year's application will be added to and treated in the same manner as the subsequent year's net electricity that is being submitted by the applicant for an incentive payment. Using the same example, if 1,000,000 kilowatt-hours of net electricity was also produced for sale in the next year by the applicant and the applicant's application also contained a request for an incentive payment for the 200,000 kilowatt-hours of accrued energy from the previous year, then a total of 1,200,000 kilowatt-hours of electricity would be considered for incentive payment for the applicant in the next year. Section 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317(d)) states that a qualified renewable energy facility may receive payments for a 10-fiscal year period. This means that no REPI payments can be made for either net electric production or accrued energy after the annual REPI payment is made that applies to the tenth fiscal year of production for a qualified facility.

Issued in Washington, DC, on June 25, 1997.

Joseph J. Romm,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 401, 411, 413, 415 and 417

[Docket No. 28851; Notice 97–2A]

RIN 2120–AF99

Commercial Space Transportation Licensing Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: A proposed rule was published on March 19, 1997 (53 FR