

# 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

### 10 CFR Part 430

[EERE–2020–BT–STD–0006]

RIN 1904–AD87

#### Energy Conservation Program: Energy Conservation Standards for External Power Supplies, Webinar and Availability of the Preliminary Technical Support Document

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

**ACTION:** Notification of a webinar and availability of preliminary technical support document.

**SUMMARY:** The U.S. Department of Energy (“DOE” or “the Department”) will hold a webinar to discuss and receive comments on the preliminary analysis it has conducted for purposes of evaluating energy conservation standards for external power supplies (“EPSs”). The meeting will cover the analytical framework, models, and tools that DOE is using to evaluate potential standards for this product; the results of preliminary analyses performed by DOE for this product; the potential energy conservation standard levels derived from these analyses that DOE could consider for this product should it determine that proposed amendments are necessary; and any other issues relevant to the evaluation of energy conservation standards for EPSs. In addition, DOE encourages written comments on these subjects. To inform interested parties and to facilitate this process, DOE has prepared an agenda, a preliminary technical support document (“TSD”), and briefing materials, which are available on the DOE website at: [www1.eere.energy.gov/buildings/appliance\\_standards/standards.aspx?productid=1](http://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=1).

**DATES:**

*Comments:* Written comments and information will be accepted on or before, April 26, 2022.

*Meeting:* DOE will hold a webinar on Thursday, March, 24, 2022, from 1:00 p.m. to 4:00 p.m. See section IV, “Public Participation,” for webinar 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). Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2020–BT–STD–0006, by any of the following methods:

1. *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the instructions for submitting comments.

2. *Email:* To [EPS2020STD006@ee.doe.gov](mailto:EPS2020STD006@ee.doe.gov). Include docket number EERE–2020–BT–STD–0006 in the subject line of the message.

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

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail and hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing coronavirus 2019 (“COVID–19”) pandemic. DOE is currently suspending receipt of public comments via postal mail and hand delivery/courier. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the COVID–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

*Docket:* The docket for this activity, which includes **Federal Register** notices, comments, public meeting transcripts, and other supporting documents/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, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at [www.regulations.gov/docket/EERE-2020-BT-STD-0006](http://www.regulations.gov/docket/EERE-2020-BT-STD-0006). The docket web page contains instructions on how to access all documents, including public comments in the docket. See section IV for information on how to submit comments through [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:**

Mr. Jeremy Domm, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–9870. Email: [ApplianceStandardsQuestions@ee.doe.gov](mailto:ApplianceStandardsQuestions@ee.doe.gov).

Ms. Nisha R. Kumar, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–8625. Email: [Nisha.kumar@hq.doe.gov](mailto:Nisha.kumar@hq.doe.gov).

For further information on how to submit a comment, 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).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. Introduction
  - A. Authority
  - B. Rulemaking Process
- II. Background
  - A. Current Standards
  - B. Current Process
- III. Summary of the Analyses Performed by DOE
  - A. Market and Technology Assessment
  - B. Screening Analysis
  - C. Engineering Analysis
  - D. Markups Analysis
  - E. Energy Use Analysis
  - F. Life-Cycle Cost and Payback Period Analyses
  - G. National Impact Analysis
- IV. Public Participation
  - A. Participation in the Webinar
  - B. Procedure for Submitting Prepared General Statements for Distribution
  - C. Conduct of the Webinar
  - D. Submission of Comments
- V. Approval of the Office of the Secretary

## I. Introduction

### A. Authority

The Energy Policy and Conservation Act, as amended (“EPCA”),<sup>1</sup> 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 B<sup>2</sup> of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. External power supplies (“EPSs”), the subject of this document, are among the products addressed by these provisions. (42 U.S.C. 6291(36); 42 U.S.C. 6293(b)(17); 42 U.S.C. 6295(u))

EPCA, as amended by the Energy Independence and Security Act of 2007, Public Law 110–140 (“EISA”), also defined a subset of EPSs, called Class A EPSs—devices that are “able to convert to only 1 AC or DC output voltage at a time” and have “nameplate output power that is less than or equal to 250 watts” among other characteristics.<sup>3</sup> (42 U.S.C. 6291(36)(C)(i)) EPCA prescribed energy conservation standards for Class A EPSs (hereafter referred to as the “Level IV standards,” the nomenclature of which is based on the marking required in accordance with the International Efficiency Marking Protocol) for which compliance was required beginning July 1, 2008. (42 U.S.C. 6295(u)(3)(A)) EPCA also directed DOE to conduct two cycles of rulemakings to determine whether to amend these standards. (42 U.S.C. 6295(u)(3)(D))

Following the EISA amendments, Congress further amended EPCA to exclude EPSs used for certain security and life safety alarms and surveillance systems manufactured prior to July 1, 2017, from the statutorily-prescribed “no-load” energy conservation standards. (Pub. L. 111–360 (January 4, 2011) (codified at 42 U.S.C. 6295(u)(3)(E)).

EPCA’s EPS provisions were again amended by the Power and Security Systems (“PASS”) Act, which extended the rulemaking deadline and effective date established under the EISA amendments for the second rulemaking cycle from July 1, 2015, and July 1, 2017, to July 1, 2021, and July 1, 2023,

respectively. (Pub. L. 115–78 (November 2, 2017) (codified at 42 U.S.C. 6295(u)(3)(D)(ii)). The PASS Act also extended the exclusion of certain security and life safety alarms and surveillance systems from no-load standards until the effective date of the final rule issued under 42 U.S.C. 6295(u)(3)(D)(ii) and allows the Secretary to treat some or all EPSs designed to be connected to a security or life safety alarm or surveillance system as a separate product class or to further extend the exclusion. (42 U.S.C. 6295(u)(3)(E)(ii) and (iv))

On January 12, 2018, the EPS Improvement Act of 2017, Public Law 115–115, amended EPCA to exclude the following devices from the EPS definition: Power supply circuits, drivers, or devices that are designed exclusively to be connected to and power (1) light-emitting diodes providing illumination, (2) organic light-emitting diodes providing illumination, or (3) ceiling fans using direct current motors.<sup>4</sup> (42 U.S.C. 6291(36)(A)(ii))

EPCA further provides that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE must publish either a notification of determination that standards for the product do not need to be amended, or a notice of proposed rulemaking (“NOPR”) including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1)) Not later than three years after issuance of a final determination not to amend standards, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(3)(B))

Under EPCA, any new or amended energy conservation standard must be designed to achieve the maximum improvement in energy efficiency that DOE determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

DOE completed the first of the two required rulemaking cycles in 2014 by adopting amended performance standards for EPSs manufactured on or after February 10, 2016. 79 FR 7845 (February 10, 2014) (setting amended

standards to apply starting on February 10, 2016) (“February 2014 Final Rule”).

DOE is publishing this Preliminary Analysis to collect data and information to inform its decision consistent with its obligations under EPCA.

### B. Rulemaking Process

DOE must follow specific statutory criteria for prescribing new or amended standards for covered products, including EPSs. As noted, EPCA requires that any new or amended energy conservation standard prescribed by the Secretary of Energy (“Secretary”) be designed to achieve the maximum improvement in energy efficiency (or water efficiency for certain products specified by EPCA) that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6295(o)(3)) The Secretary may not prescribe an amended or new standard that will not result in significant conservation of energy, or is not technologically feasible or economically justified. (42 U.S.C. 6295(o)(3))

To adopt any new or amended standards for a covered product, DOE must determine that such action would result in significant energy savings. (42 U.S.C. 6295(o)(3)(B)) Although the term “significant” is not defined in EPCA, the U.S. Court of Appeals, for the District of Columbia Circuit in *Natural Resources Defense Council v. Herrington*, 768 F.2d 1355, 1373 (D.C. Cir. 1985), opined that Congress intended “significant” energy savings in the context of EPCA to be savings that were not “genuinely trivial.”

The significance of energy savings offered by a new or amended energy conservation standard cannot be determined without knowledge of the specific circumstances surrounding a given rulemaking.<sup>5</sup> For example, the United States rejoined the Paris Agreement on February 19, 2021. As part of that agreement, the United States has committed to reducing greenhouse (“GHG”) emissions in order to limit the rise in mean global temperature. As such, energy savings that reduce GHG emissions have taken on greater importance. Additionally, some covered products and equipment have most of their energy consumption occur during periods of peak energy demand. The impacts of these products on the energy infrastructure can be more pronounced than products with relatively constant demand. In evaluating the significance

<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).

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

<sup>3</sup> Congress also excluded certain devices from the Class A EPS definition, specifically certain devices requiring listing and approval as a medical device and devices that either (1) power the charger of a detachable battery pack or (2) charge the battery of a product that is fully or primarily motor operated. (See 42 U.S.C. 6291(36)(C)(ii))

<sup>4</sup> DOE amended its regulations to reflect the changes introduced by the PASS Act and EPS Improvement Act. 84 FR 437 (January 29, 2019).

<sup>5</sup> See 86 FR 70892 (December 13, 2021).

of energy savings, DOE considers differences in primary energy and full-fuel-cycle (“FFC”) effects for different covered EPSs when determining whether energy savings are significant. Primary energy and FFC effects include the energy consumed in electricity production (depending on load shape), in distribution and transmission, and in extracting, processing, and transporting primary fuels (*i.e.*, coal, natural gas, petroleum fuels), and thus present a more complete picture of the impacts of energy conservation standards.

Accordingly, DOE is evaluating the significance of energy savings on a case-by-case basis. In doing this evaluation, DOE will review the amount of FFC savings, the corresponding reduction in GHG emissions, and the need to confront the global climate crisis. DOE

has initially determined the energy savings for the candidate standard levels evaluated in this preliminary analysis rulemaking are “significant” within the meaning of 42 U.S.C. 6295(o)(3)(B).

To determine whether a standard is economically justified, EPCA requires that DOE determine whether the benefits of the standard exceed its burdens by considering, to the greatest extent practicable, the following seven factors:

- (1) The economic impact of the standard on the manufacturers and consumers of the 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 that are likely to result from the standard;

(3) The total projected amount of energy savings likely to result directly from the standard;

(4) Any lessening of the utility or the performance of the products likely to result from 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 standard;

(6) The need for national energy conservation; and

(7) Other factors the Secretary of Energy (Secretary) considers relevant.

(42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

DOE fulfills these and other applicable requirements by conducting a series of analyses throughout the rulemaking process. Table I.1 shows the individual analyses that are performed to satisfy each of the requirements within EPCA.

TABLE I.1—EPCA REQUIREMENTS AND CORRESPONDING DOE ANALYSIS

EPCA requirement	Corresponding DOE analysis
Significant Energy Savings .....	<ul style="list-style-type: none"> <li>• Shipments Analysis.</li> <li>• National Impact Analysis.</li> <li>• Energy Use Analysis.</li> <li>• Market and Technology Assessment.</li> <li>• Screening Analysis.</li> <li>• Engineering Analysis.</li> </ul>
Technological Feasibility .....	<ul style="list-style-type: none"> <li>• Manufacturer Impact Analysis.</li> <li>• Life-Cycle Cost and Payback Period Analysis.</li> <li>• Life-Cycle Cost Subgroup Analysis.</li> <li>• Shipments Analysis.</li> <li>• Markups for Product Price Analysis.</li> <li>• Energy Use Analysis.</li> <li>• Life-Cycle Cost and Payback Period Analysis.</li> <li>• Shipments Analysis.</li> <li>• National Impact Analysis.</li> <li>• Screening Analysis.</li> <li>• Engineering Analysis.</li> <li>• Manufacturer Impact Analysis.</li> <li>• Shipments Analysis.</li> <li>• National Impact Analysis.</li> <li>• Employment Impact Analysis.</li> <li>• Utility Impact Analysis.</li> <li>• Emissions Analysis.</li> <li>• Monetization of Emission Reductions Benefits.<sup>6</sup></li> <li>• Regulatory Impact Analysis.</li> </ul>
Economic Justification:	
1. Economic impact on manufacturers and consumers .....	
2. Lifetime operating cost savings compared to increased cost for the product.	
3. Total projected energy savings .....	
4. Impact on utility or performance .....	
5. Impact of any lessening of competition .....	
6. Need for national energy conservation .....	
7. Other factors the Secretary considers relevant .....	

Further, EPCA establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard,

as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii))

EPCA also contains what is known as an “anti-backsliding” provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any covered product

type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4))

Additionally, EPCA specifies requirements when promulgating an energy conservation standard for a covered product that has two or more subcategories. DOE must specify a different standard level for a type or class of product that has the same function or intended use, if DOE determines that products within such group: (A) Consume a different kind of

<sup>6</sup> Currently, in compliance with the preliminary injunction issued on February 11, 2022, in *Louisiana v. Biden*, No. 21-cv-1074-JDC-KK (W.D. La.), DOE is not monetizing the costs of greenhouse gas emissions.

energy from that consumed by other covered products within such type (or class); or (B) have a capacity or other performance-related feature which other products within such type (or class) do not have and such feature justifies a higher or lower standard. (42 U.S.C. 6295(q)(1)) In determining whether a performance-related feature justifies a different standard for a group of products, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE deems appropriate. *Id.* Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6295(q)(2))

Finally, pursuant to the amendments contained in the Energy Independence and Security Act of 2007, Public Law 110–140 (December 19, 2007), any final rule for new or amended energy conservation standards promulgated after July 1, 2010, is required to address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) Specifically, when DOE adopts a standard for a covered product after that date, it must, if justified by the criteria for adoption of standards under EPCA (42 U.S.C. 6295(o)), incorporate standby mode and off mode energy use into a single standard, or, if that is not feasible, adopt a separate standard for such energy use for that product. (42 U.S.C. 6295(gg)(3)(A)–(B)) DOE’s current test procedures and energy conservation standards for EPSs address no-load mode (standby mode) energy use.

Before proposing a standard, DOE typically seeks public input on the analytical framework, models, and tools that DOE intends to use to evaluate standards for the product at issue and the results of preliminary analyses DOE performed for the product.

DOE is examining whether to amend the current standards pursuant to its obligations under EPCA. This notification announces the availability of the preliminary Technical Support Document (“TSD”), which details the preliminary analyses and summarizes

the preliminary results of DOE’s analyses. In addition, DOE is announcing a public webinar to solicit feedback from interested parties on its analytical framework, models, and preliminary results.

*C. Deviation From Appendix A*

In accordance with section 3(a) of 10 CFR part 430, subpart C, appendix A (“appendix A”), DOE notes that it is deviating from the provision in appendix A regarding the pre-NOPR stages for an energy conservation standards rulemaking. Section 6(a)(2) of appendix A states that if the Department determines it is appropriate to proceed with a rulemaking, the preliminary stages of a rulemaking to issue or amend an energy conservation standard that DOE will undertake will be a framework document and preliminary analysis, or an advance notice of proposed rulemaking (“ANOPR”). DOE is opting to deviate from this step by publishing a preliminary analysis without a framework document. A framework document is intended to introduce and summarize generally the various analyses DOE conducts during the rulemaking process and requests initial feedback from interested parties. As discussed further in the following section, prior to this notification of the preliminary analysis, DOE issued a request for information on May 20, 2020 (“May 2020 RFI”) in which DOE discussed the previous EPS energy conservation standards given in the February 2014 Final Rule. 85 FR 30636. In that RFI, DOE requested comment on whether there were changes to the technologies considered as part of the February 2014 Final Rule that would affect potential amended standards and on any aspect of its economic justification analysis. 85 FR 30636, 30639–30648. While DOE received comments on the assumptions employed in the analysis conducted in support of the February 2014 Final Rule (*see, e.g.*, Joint Commenters, Docket EERE–2020–BT–STD–0006, p. 7–8), DOE did not receive comments or data

suggesting DOE rely on a different analytical framework from that conducted for the February 2014 Final Rule. As DOE intends to rely on substantively the same analytical methods as in the most recent rulemaking, publication of a framework document would not introduce an analytical framework different from that on which comment was requested in the May 2020 RFI and on which comment was received. As such, DOE is not publishing a framework document.

Further, section 6(d)(2) of appendix A specifies that the length of the public comment period for pre-NOPR rulemaking documents will vary depending upon the circumstances of the particular rulemaking, but will not be less than 75 calendar days. For this preliminary analysis, DOE has opted to instead provide a 60-day comment period.

As stated, DOE requested comment in the May 2020 RFI on the analysis conducted in support of the February 2014 Final Rule and provided stakeholders a 75-day comment period. DOE, however, did not receive comments suggesting a need to substantively change the analytical approach previously taken. Given that the analysis will largely remain the same, and in light of the 75-day comment period DOE has already provided with its May 2020 RFI, DOE has determined that a 60-day comment period is sufficient to enable interested parties to review the tentative methodologies and accompanying analysis to develop meaningful comments in response to the preliminary TSD.

**II. Background**

*A. Current Standards*

In the February 2014 Final Rule, DOE prescribed the current energy conservation standards for EPSs manufactured on and after February 10, 2016. 79 FR 7846. These standards are set forth in DOE’s regulations at 10 CFR 430.32(w) and are repeated in Table II.1.

TABLE II.1—FEDERAL ENERGY CONSERVATION STANDARDS FOR EXTERNAL POWER SUPPLIES

Nameplate output power (P <sub>out</sub> )	Minimum average efficiency in active mode (expressed as a decimal)	Maximum power in no-load mode [W]
<b>Single-Voltage External AC–DC Power Supply, Basic Voltage</b>		
P <sub>out</sub> ≤ 1 W	≥0.5 × P <sub>out</sub> + 0.16	≤0.100
1 W < P <sub>out</sub> ≤ 49 W	≥0.071 × ln(P <sub>out</sub> ) – 0.0014 × P <sub>out</sub> + 0.67	≤0.100
49 W < P <sub>out</sub> ≤ 250 W	≥0.880	≤0.210
P <sub>out</sub> > 250 W	≥0.875	≤0.500

TABLE II.1—FEDERAL ENERGY CONSERVATION STANDARDS FOR EXTERNAL POWER SUPPLIES—Continued

Nameplate output power ( $P_{out}$ )	Minimum average efficiency in active mode (expressed as a decimal)	Maximum power in no-load mode [W]
<b>Single-Voltage External AC–DC Power Supply, Low-Voltage</b>		
$P_{out} \leq 1$ W .....	$\geq 0.517 \times P_{out} + 0.087$ .....	$\leq 0.100$
$1$ W < $P_{out} \leq 49$ W .....	$\geq 0.0834 \times \ln(P_{out}) - 0.0014 \times P_{out} + 0.609$ .....	$\leq 0.100$
$49$ W < $P_{out} \leq 250$ W .....	$\geq 0.870$ .....	$\leq 0.210$
$P_{out} > 250$ W .....	$\geq 0.875$ .....	$\leq 0.500$
<b>Single-Voltage External AC–AC Power Supply, Basic-Voltage</b>		
$P_{out} \leq 1$ W .....	$\geq 0.5 \times P_{out} + 0.16$ .....	$\leq 0.210$
$1$ W < $P_{out} \leq 49$ W .....	$\geq 0.071 \times \ln(P_{out}) - 0.0014 \times P_{out} + 0.67$ .....	$\leq 0.210$
$49$ W < $P_{out} \leq 250$ W .....	$\geq 0.880$ .....	$\leq 0.210$
$P_{out} > 250$ W .....	$\geq 0.875$ .....	$\leq 0.500$
<b>Single-Voltage External AC–AC Power Supply, Low-Voltage</b>		
$P_{out} \leq 1$ W .....	$\geq 0.517 \times P_{out} + 0.087$ .....	$\leq 0.210$
$1$ W < $P_{out} \leq 49$ W .....	$\geq 0.0834 \times \ln(P_{out}) - 0.0014 \times P_{out} + 0.609$ .....	$\leq 0.210$
$49$ W < $P_{out} \leq 250$ W .....	$\geq 0.870$ .....	$\leq 0.210$
$P_{out} > 250$ W .....	$\geq 0.875$ .....	$\leq 0.500$
<b>Multiple-Voltage External Power Supply</b>		
$P_{out} \leq 1$ W .....	$\geq 0.497 \times P_{out} + 0.067$ .....	$\leq 0.300$
$1$ W < $P_{out} \leq 49$ W .....	$\geq 0.075 \times \ln(P_{out}) + 0.561$ .....	$\leq 0.300$
$P_{out} > 49$ W .....	$\geq 0.860$ .....	$\leq 0.300$

### B. Current Process

On May 20, 2020, DOE published the May 2020 RFI, initiating a review to determine whether any new or amended standards would satisfy the relevant requirements of EPCA for a new or amended energy conservation standard for EPSs. 85 FR 30636. Specifically, through the published notice and request for information, DOE sought data and information that could enable the agency to determine whether DOE should propose a “no new standard” determination because a more stringent standard: (1) Would not result in a significant savings of energy; (2) is not technologically feasible; (3) is not economically justified; or (4) any combination of foregoing. *Id.*

Comments received to date as part of the current process have helped DOE identify and resolve issues related to the preliminary analyses. Chapter 2 of the preliminary TSD summarizes and addresses the comments received.

### III. Summary of the Analyses Performed by DOE

For the products covered in this preliminary analysis, DOE conducted in-depth technical analyses in the following areas: (1) Engineering; (2) markups to determine product price; (3) energy use; (4) life cycle cost (“LCC”) and payback period (“PBP”); and (5) national impacts. The preliminary TSD that presents the methodology and

results of each of these analyses is available at: [www1.eere.energy.gov/buildings/appliance\\_standards/standards.aspx?productid=1](http://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=1).

DOE also conducted, and has included in the preliminary TSD, several other analyses that support the major analyses or are preliminary analyses that will be expanded if DOE determines that a NOPR is warranted to propose amended energy conservation standards. These analyses include: (1) The market and technology assessment; (2) the screening analysis, which contributes to the engineering analysis; and (3) the shipments analysis, which contributes to the LCC and PBP analysis and the national impact analysis (“NIA”). In addition to these analyses, DOE has begun preliminary work on the manufacturer impact analysis and has identified the methods to be used for the consumer subgroup analysis, the emissions analysis, the employment impact analysis, the regulatory impact analysis, and the utility impact analysis. DOE will expand on these analyses in the NOPR should one be issued.

#### A. Market and Technology Assessment

DOE develops information in the market and technology assessment that provides an overall picture of the market for the products concerned, including general characteristics of the products, the industry structure, manufacturers, market characteristics, and technologies used in the products.

This activity includes both quantitative and qualitative assessments, based primarily on publicly available information. The subjects addressed in the market and technology assessment include: (1) A determination of the scope of the rulemaking and product classes, (2) manufacturers and industry structure, (3) existing efficiency programs, (4) shipments information, (5) market and industry trends, and (6) technologies or design options that could improve the energy efficiency of the product.

See chapter 3 of the preliminary TSD for further discussion of the market and technology assessment.

#### B. Screening Analysis

DOE uses the following five screening criteria to determine which technology options are suitable for further consideration in an energy conservation standards rulemaking:

(1) *Technological feasibility.* Technologies that are not incorporated in commercial products or in working prototypes will not be considered further.

(2) *Practicability to manufacture, install, and service.* If it is determined that mass production and reliable installation and servicing of a technology in commercial products could not be achieved on the scale necessary to serve the relevant market at the time of the projected compliance date of the standard, then that

technology will not be considered further.

(3) *Impacts on product utility or product availability.* If it is determined that a technology would have a significant adverse impact on the utility of the product for significant subgroups of consumers or would result in the unavailability of any covered product type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as products generally available in the United States at the time, it will not be considered further.

(4) *Adverse impacts on health or safety.* If it is determined that a technology would have significant adverse impacts on health or safety, it will not be considered further.

(5) *Unique-pathway proprietary technologies.* If a design option utilizes proprietary technology that represents a unique pathway to achieving a given efficiency level, that technology will not be considered further due to the potential for monopolistic concerns. 10 CFR part 430, subpart C, appendix A, sections 6(b)(3) and 7(b).

If DOE determines that a technology, or a combination of technologies, meets one or more of the listed five screening criteria, it will be excluded from further consideration in the engineering analysis.

See chapter 4 of the preliminary TSD for further discussion of the screening analysis.

### C. Engineering Analysis

The purpose of the engineering analysis is to establish the relationship between the efficiency and cost of EPSs. There are two elements to consider in the engineering analysis; the selection of efficiency levels to analyze (*i.e.*, the “efficiency analysis”) and the determination of product cost at each efficiency level (*i.e.*, the “cost analysis”). In determining the performance of higher-efficiency products, DOE considers technologies and design option combinations not eliminated by the screening analysis. For each product class, DOE estimates the manufacturer production cost (“MPC”) for the baseline as well as higher efficiency levels. The output of the engineering analysis is a set of cost-efficiency “curves” that are used in downstream analyses (*i.e.*, the LCC and PBP analyses and the NIA).

DOE converts the MPC to the manufacturer selling price (“MSP”) by applying a manufacturer markup. The MSP is the price the manufacturer charges its first customer, when selling into the product distribution channels.

The manufacturer markup accounts for manufacturer non-production costs and profit margin. DOE developed the manufacturer markup by examining publicly available financial information for manufacturers of the covered product.

See Chapter 5 of the preliminary TSD for additional detail on the engineering analysis.

### D. Markups Analysis

At each step in the distribution channel, companies mark up the price of the product to cover business costs and profit margins. The markups analysis develops appropriate markups (*e.g.*, retailer markups, distributor markups, contractor markups, and includes sales taxes) in the distribution chain to convert MSP estimates derived in the engineering analysis to consumer prices, which are then used in the LCC and PBP analysis.

DOE developed baseline and incremental markups for each actor in the distribution chain. Baseline markups are applied to the price of products with baseline efficiency, while incremental markups are applied to the difference in price between baseline and higher-efficiency models (the incremental cost increase). The incremental markup is typically less than the baseline markup and is designed to maintain similar per-unit operating profit before and after new or amended standards.<sup>7</sup>

Chapter 6 of the preliminary TSD provides details on DOE’s development of markups for EPSs.

### E. Energy Use Analysis

The purpose of the energy use analysis is to determine the annual energy consumption of EPSs at different efficiencies in representative U.S. homes and business, and to assess the energy savings potential of increased EPS efficiency. The energy use analysis estimates the range of energy use of EPSs as they are actually used by consumers to establish a distribution of efficiencies. The energy use analysis provides the basis for other analyses DOE performed, particularly assessments of the energy savings and the savings in consumer operating costs

<sup>7</sup> Because the projected price of standards-compliant products is typically higher than the price of baseline products, using the same markup for the incremental cost and the baseline cost would result in higher per-unit operating profit. While such an outcome is possible, DOE maintains that in markets that are reasonably competitive it is unlikely that standards would lead to a sustainable increase in profitability in the long run. Chapter 6 of the preliminary analysis TSD provides more detail about DOE’s assumption for incremental markups.

that could result from adoption of amended or new standards.

Chapter 7 of the preliminary TSD addresses the energy use analysis.

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

The effect of new or amended energy conservation standards on individual consumers usually involves a reduction in operating cost and an increase in purchase cost. DOE used the following two metrics to measure consumer impacts:

- The LCC is the total consumer expense of an appliance or product over the life of that product, consisting of total installed cost (manufacturer selling price, distribution chain markups, and sales tax) plus operating costs (expenses for energy use). To compute the operating costs, DOE discounts future operating costs to the time of purchase and sums them over the lifetime of the product.

- The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more-efficient product through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost at higher efficiency levels by the change in annual operating cost for the year that amended or new standards are assumed to take effect.

Chapter 8 of the preliminary TSD addresses the LCC and PBP analyses.

### G. 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 amended standards at specific efficiency levels (referred to as candidate standard levels).<sup>8</sup> DOE calculates the NES and NPV for the potential standard levels considered based on projections of annual product shipments, along with the annual energy consumption and total cost data from the energy use and LCC analyses. For the present analysis, DOE projected the energy savings, operating cost savings, product costs, and NPV of consumer benefits over the lifetime of EPSs sold from 2027 through 2056.

DOE evaluates the impacts of new or amended standards by comparing a case without such standards with standards-case projections (“no-new-standards case”). The no-new-standards case characterizes energy use and consumer costs for each product class in the absence of new or amended energy

<sup>8</sup> The NIA accounts for impacts in the 50 states and U.S. territories.

conservation standards. For this projection, DOE considers historical trends in efficiency and various factors that are likely to affect the mix of efficiencies over time. DOE compares the no-new-standards case with projections characterizing the market for each product class if DOE adopted new or amended standards at specific energy efficiency levels for that class. For each efficiency level, DOE considers how a given standard would likely affect the market shares of product with efficiencies greater than the standard.

DOE uses a spreadsheet model to calculate the energy savings and the national consumer costs and savings from each efficiency level. Interested parties can review DOE's analyses by changing various input quantities within the spreadsheet. The NIA spreadsheet model uses typical values (as opposed to probability distributions) as inputs. Critical inputs to this analysis include shipments projections, estimated product lifetimes, product installed costs and operating costs, product annual energy consumption, the base case efficiency projection, and discount rates.

DOE estimates a combined total of 0.9 quads of site energy savings at the max-tech efficiency levels for EPSs. Combined site energy savings at Efficiency Level 1 for all product classes are estimated to be 0.05 quads.

Chapter 10 of the preliminary TSD addresses the NIA.

#### IV. Public Participation

DOE invites public participation in this process through participation in the webinar and submission of written comments and information. After the webinar and the closing of the comment period, DOE will consider all timely-submitted comments and additional information obtained from interested parties, as well as information obtained through further analyses. Following such consideration, the Department will publish either a determination that the standards for EPSs need not be amended or a NOPR proposing to amend those standards. The NOPR, should one be issued, would include proposed energy conservation standards for the products covered by that rulemaking, and members of the public would be given an opportunity to submit written and oral comments on the proposed standards.

##### A. Participation in the Webinar

The time and date for the webinar meeting are listed in the **DATES** section at the beginning of this document. Webinar registration information, participant instructions, and

information about the capabilities available to webinar participants will be published on DOE's website: [www.energy.gov/eere/buildings/public-meetings-and-comment-deadlines](http://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 an interest in the topics addressed in this document, or who is representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit such request to

[ApplianceStandardsQuestions@ee.doe.gov](mailto:ApplianceStandardsQuestions@ee.doe.gov). Persons who wish to speak should include with their request a computer file in Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this rulemaking and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

Persons requesting to speak should briefly describe the nature of their interest in this rulemaking and provide a telephone number for contact. DOE requests persons selected to make an oral presentation to submit an advance copy of their statements at least two weeks before the webinar. At its discretion, DOE may permit persons who cannot supply an advance copy of their statement to participate, if those persons have made advance alternative arrangements with the Building Technologies Office. As necessary, requests to give an oral presentation should ask for such alternative arrangements.

##### C. Conduct of the Webinar

DOE will designate a DOE official to preside at the 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 webinar/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 webinar and until the end of the comment period, interested parties may submit further comments on the

proceedings and any aspect of the rulemaking.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in the preliminary assessment, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this 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 permit, 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 rulemaking. The official conducting the webinar 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 above procedures that may be needed for the proper conduct of the webinar.

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

##### D. Submission of Comments

DOE invites all interested parties, regardless of whether they participate in the webinar, to submit in writing by April 26, 2022, comments and information on matters addressed in this notification and on other matters relevant to DOE's consideration of amended energy conservation standards for EPSs. 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](http://www.regulations.gov) web page 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. If this instruction is followed, 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.* Comments and documents submitted via email 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. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in

PDF (preferred), Microsoft Word or Excel, 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(e), (f), any person submitting information that he or she believes to be confidential and exempt by law from mandatory public disclosure should submit via email 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).

#### V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notification of a webinar and availability of preliminary technical support document.

#### Signing Authority

This document of the Department of Energy was signed on February 7, 2022, by Kelly J. Speakes-Backman, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the 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 February 17, 2022.

**Treena V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

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## DEPARTMENT OF ENERGY

### 10 CFR Part 431

[EERE-2019-BT-TP-0041]

RIN 1904-AE57

#### Energy Conservation Program: Test Procedure for Commercial Warm Air Furnaces

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

**ACTION:** Notice of proposed rulemaking and announcement of public meeting.

**SUMMARY:** The U.S. Department of Energy ("DOE") proposes to amend the test procedures for commercial warm air furnaces ("CWAFFs") to incorporate the latest versions of the industry standards that are currently incorporated by reference. DOE also proposes to establish a new metric, Thermal Efficiency Two ("TE2"), and corresponding test procedure. Use of the newly proposed test procedure would become mandatory at such time as compliance with amended energy conservation standards based on TE2 is required, should DOE adopt such standards. DOE also proposes additional specifications for CWAFFs with multiple vent hoods or small-diameter vent hoods. DOE is seeking comment from interested parties on the proposal.

**DATES:** DOE will accept comments, data, and information regarding this proposal no later than April 26, 2022. See section V, "Public Participation," for details. DOE will hold a webinar on Tuesday, March 29, 2022, from 1:00 p.m. to 5:00 p.m. See section V, "Public Participation," for webinar registration information, participant instructions, and information about the capabilities available to webinar participants. If no participants register for the webinar, it will be cancelled.

**ADDRESSES:** Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov*. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket