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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 431

[Docket No. EERE-2007-BT-STD-0007]

RIN 1904-AB70

Energy Conservation Standards for Small Electric Motors: Public Meeting and Availability of the Preliminary Technical Support Document

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

ACTION: Notice of public meeting and availability of preliminary technical support document.

SUMMARY: The Department of Energy (DOE) will hold an informal public meeting to discuss and receive comments on the equipment classes that DOE plans to analyze for purposes of establishing energy conservation standards for small electric motors; the analytical framework, models, and tools that DOE is using to evaluate standards for these products; the results of preliminary analyses performed by DOE for these products; and potential energy conservation standard levels derived from these analyses that DOE could consider for these products. Also, DOE encourages written comments on these subjects. To inform stakeholders and facilitate this process, DOE has prepared an agenda, a preliminary Technical Support Document (preliminary TSD), and briefing materials, which are available at: http://www1.eere.energy.gov/buildings/appliance_standards/commercial/small_electric_motors.html.

DATES: DOE will hold a public meeting on Friday, January 30, 2009, from 9 a.m. to 5 p.m. in Washington, DC. Any person requesting to speak at the public meeting should submit such request, along with an electronic copy of the statement to be given at the public meeting, before 4 p.m., Friday, January 23, 2009. Written comments are welcome, especially following the public meeting, and should be submitted March 2, 2009.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 1E-245, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Please note that foreign nationals participating in the public meeting are subject to advance security screening procedures. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting Ms. Brenda Edwards at (202) 586-2945 so that the necessary procedures can be completed. Interested persons may submit comments, identified by docket number EERE-2007-BT-STD-0007, by any of the following methods:

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

- *E-mail:* small_electric_motors_std_rulemaking@hq.doe.gov. Include EERE-2007-BT-STD-0007 in the subject line of the message.

- *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, Public Meeting for Small Electric Motors, EERE-2007-BT-STD-0007, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone (202) 586-2945. Please submit one signed paper original.

- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024. Telephone (202) 586-2945. Please submit one signed paper original.

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

Docket: For access to the docket to read background documents or a copy of the transcript of the public meeting or comments received, go to the U.S. Department of Energy, Sixth Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024, (202) 586-2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at (202) 586-2945 for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information to Mr. James Raba, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE-2J, 1000

Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-8654. E-mail: Jim.Raba@ee.doe.gov. In the Office of General Counsel, contact Mr. Michael Kido, U.S. Department of Energy, Office of General Counsel, GC-72, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8145. E-mail: Michael.Kido@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

A. Statutory Authority

Part A of Title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 *et seq.*) (EPCA) established the Energy Conservation Program for Consumer Products Other than Automobiles. Amendments expanded Title III of EPCA to include certain commercial and industrial equipment, including small electric motors. (42 U.S.C. 6311 *et seq.*) In particular, the Energy Policy Act of 1992, Public Law 102-486 (EPACT 1992) amended EPCA to direct DOE to prescribe energy conservation standards for those small electric motors for which the Secretary determines that standards "would be technologically feasible and economically justified, and would result in significant energy savings." (42 U.S.C. 6317(b)(1)).

Before DOE prescribes any standard for small electric motors, however, it must first solicit comments on a proposed standard. Moreover, DOE will design each standard for these products to: (1) Achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified, and (2) result in significant conservation of energy. (42 U.S.C. 6295(o)(2)(A) and (o)(3), 42 U.S.C. 6316(a), and 42 U.S.C. 6317(b)(1) and (c)). To determine whether a proposed standard is economically justified, DOE must, after receiving comments on the proposed standard, determine whether the benefits of the standard exceed its burdens to the greatest extent practicable, weighing the following seven factors:

1. The economic impact of the standard on manufacturers and consumers of products subject to the standard;

2. The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products

which are likely to result from the imposition of the standard;

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

4. Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

5. The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

6. The need for national energy conservation; and

7. Other factors the Secretary [of Energy] considers relevant. (42 U.S.C. 6295(o)(2)(B)(i)).

Prior to proposing a standard, DOE typically seeks public input on the analytical framework, models, and tools that will be used to evaluate standards; the results of preliminary analyses; and potential energy conservation standard levels derived from these analyses. DOE is publishing this document to announce the availability of the preliminary technical support document (preliminary TSD), which detail the preliminary analyses, discuss the comments on the Framework document, and summarize the preliminary results. In addition, DOE is announcing a public meeting to solicit feedback from interested parties on its analytical framework, models, and preliminary results.

B. History of Standards Rulemaking for Small Electric Motors

1. Background

As indicated above, EPACT 1992 amended EPCA to specifically address standards for small electric motors. The amendment requires DOE to prescribe test procedures and then standards for those small electric motors for which DOE has determined that standards would be technologically feasible and economically justified and would result in significant energy savings. (42 U.S.C. 6317(b)(1)). Pursuant to this provision, on July 10, 2006, the Secretary of Energy issued the following determination:

Based on its analysis of the information now available, the Department [of Energy] has determined that energy conservation standards for certain small electric motors appear to be technologically feasible and economically justified, and are likely to result in significant energy savings. Consequently, the Department [of Energy] will initiate the development of energy efficiency test procedures and standards for certain small electric motors.

71 FR 38799 and 38807 (July 10, 2006).

In its determination analysis, DOE uses the phrase "certain small electric

motors" to show where DOE is referring to motors for which it has made a positive determination. In this way, DOE is establishing that the Secretary of Energy has determined that energy conservation standards appear to be justified for capacitor-start and polyphase small electric motors.

The Secretary's determination was based in part on DOE's draft report, "Analysis of Energy Conservation Standards for Small Electric Motors," which estimated the likely range of energy savings and economic benefits that would result from energy conservation standards for small electric motors. DOE made this report available for comment in June 2003 at http://www.eere.energy.gov/buildings/appliance_standards/commercial/small_electric_motors.html.

2. Current Rulemaking Process

As a result of the Secretary's positive determination, DOE prepared and published a notice announcing the availability of the framework document, "Energy Conservation Standards Rulemaking Framework Document for Small Electric Motors," and a public meeting to discuss the proposed analytical framework for the rulemaking. 72 FR 44990 (August 10, 2007). DOE also posted the framework document on its Web site describing the procedural and analytical approaches DOE anticipated using to evaluate the establishment of energy conservation standards for small electric motors. This document is available at http://www.eere.energy.gov/buildings/appliance_standards/commercial/pdfs/small_motors_framework_073007.pdf. DOE held a public meeting on September 13, 2007, to describe the various rulemaking analyses DOE would conduct, such as the engineering analysis, the life-cycle cost (LCC) and payback period (PBP) analyses, and the national impact analysis (NIA); the methods for conducting them; and the relationship among the various analyses. Manufacturers, trade associations, and environmental advocates attended the meeting. The participants discussed eight major issues: The scope of covered small electric motors, definitions, test procedures, horsepower and kilowatt equivalency, DOE's engineering analysis, life-cycle costs, efficiency levels, and energy savings.

DOE developed two economic spreadsheets for analyzing the economic impacts of standard levels—one that calculates LCC and PBP, and one that

calculates national impacts.¹ DOE prepared an LCC and PBP spreadsheet that calculates results for each of the representative units analyzed. The spreadsheet includes product efficiency data that allows users to determine LCC savings and PBPs based on average values. The spreadsheets also can be combined with Crystal Ball (a commercially available software program) to generate a Monte Carlo simulation, which incorporates uncertainty and variability considerations. The second economic spreadsheet, the national impact analysis spreadsheet, calculates the impacts of candidate standard levels on shipments and the national energy savings (NES) and net present value (NPV) at various standard levels. There is one national impact analysis spreadsheet for all small electric motors. DOE has posted all of these economic spreadsheets on its Web site for review and comment by interested parties.

Comments received since publication of the framework document have helped DOE identify and resolve issues involved in the preliminary analyses. Chapter 2 of the preliminary TSD, available at the Web link provided in the **SUMMARY** section of this notice, summarizes and addresses the comments received in response to the framework document.

C. Summary of the Analyses Performed by DOE

For small electric motors currently under consideration, DOE conducted in-depth technical analyses in the following areas: (1) Engineering, (2) energy-use characterization, (3) markups to determine product price, (4) life-cycle cost (LCC) and payback period (PBP) analyses, and (5) national impact analysis (NIA). These analyses resulted in a preliminary TSD that presents the methodology and results of each of these analyses. The preliminary TSD is available at the Web address given in the **SUMMARY** section of this notice. The analyses are described in more detail below.

DOE also conducted several other analyses that either support the five major analyses or are preliminary analyses that will be expanded in the notice of proposed rulemaking (NPR).²

¹ For the notice of proposed rulemaking, DOE will also develop an economic spreadsheet that will evaluate the financial impacts on small electric motors that may result from a standard level.

² For past rulemakings under EPCA section 325, DOE was required to issue an Advanced Notice of Proposed Rulemaking (ANOPR) following publication of the framework document. The Energy Independence and Security Act of 2007 (EISA 2007) eliminated the requirement that DOE issue an ANOPR as part of the standards

These analyses include the market and technology assessment, the screening analysis, which contributes to the engineering analysis, and the shipments analysis, which contributes to the NIA. In addition to these analyses, DOE has begun some preliminary work on the manufacturer impact analysis and identified the methods to be used for the LCC subgroup analysis, the environmental assessment, the employment analysis, the regulatory impact analysis, and the utility impact analysis. DOE will expand on these analyses in the NOPR.

1. Engineering Analysis

The engineering analysis establishes the relationship between the manufacturer selling price and efficiency of a product DOE is evaluating for energy conservation standards. This relationship serves as the basis for cost-benefit calculations for individual consumers, manufacturers, and the Nation. The engineering analysis identifies representative baseline equipment, which is the starting point for analyzing technologies that provide energy efficiency improvements. Baseline equipment refers to a model or models having features and technologies typically found in that equipment currently offered for sale, in this case, small electric motors. The baseline model in each equipment class represents the characteristics of certain small electric motors in that class. After identifying the baseline models, DOE estimated manufacturer selling prices by using a consistent methodology and pricing scheme including material and labor costs and manufacturer's markups. In this way, DOE developed these so-called "manufacturer selling prices" for the baseline and more efficient motor designs. Later, in its Markups to Determine Installed Price analysis, DOE converts these manufacturer selling prices into installed prices. In the preliminary TSD, section 2.4 of chapter 2 and chapter 5 each provide detail on the engineering analysis and the derivation of the manufacturer selling prices.

2. Energy Use Characterization

The energy use characterization provides estimates of annual energy consumption for small electric motors, which DOE uses in the LCC and PBP analyses and the NIA. DOE developed

energy consumption estimates for all of the equipment classes analyzed in the engineering analysis, as the basis for its energy use estimates. In the preliminary TSD, section 2.5 of chapter 2 and chapter 7 each provide detail on the energy use characterization.

3. Markups To Determine Installed Price

DOE derives the installed prices for products based on manufacturer markups, retailer markups, distributor markups, contractor markups, builder markups, and sales taxes. In deriving these markups, DOE has determined the distribution channels for product sales, the markup associated with each party in the distribution channels, and the existence and magnitude of differences between markups for baseline products (baseline markups) and for more-efficient products (incremental markups). DOE calculates both overall baseline and overall incremental markups based on the product markups at each step in the distribution channel. The overall incremental markup relates the change in the manufacturer sales price of higher-efficiency models (the incremental cost increase) to the change in the retailer or distributor sales price. In the preliminary TSD, section 2.6 of chapter 2 and chapter 6 each provide detail on the estimation of markups.

4. Life-Cycle Cost and Payback Period Analyses

The LCC and PBP analyses determine the economic impact of potential standards on individual consumers. The LCC is the total consumer expense for a product over the life of the product. The LCC analysis compares the LCCs of products designed to meet possible energy conservation standards with the LCCs of the products likely to be installed in the absence of standards. DOE determines LCCs by considering (1) Total installed cost to the purchaser (which consists of manufacturer selling price, sales taxes, distribution chain markups, and installation cost); (2) the operating expenses of the products (energy use and maintenance); (3) product lifetime; and (4) a discount rate that reflects the real consumer cost of capital and puts the LCC in present-value terms. The PBP represents the number of years needed to recover the increase in purchase price (including installation cost) of more efficient products through savings in the operating cost of the product. It is the change in total installed cost due to increased efficiency divided by the change in annual operating cost from increased efficiency. In the preliminary TSD, section 2.7 of chapter 2 and

chapter 8 each provide detail on the LCC and PBP analyses.

5. National Impact Analysis

The NIA estimates the NES and the NPV of total consumer costs and savings expected to result from new standards at specific efficiency levels (referred to as candidate standard levels). DOE calculated NES and NPV for each level for each candidate standard for small electric motors as the difference between a base-case forecast (without new standards) and the standards case forecast (with standards). DOE determined national annual energy consumption by multiplying the number of units in use (by vintage) by the average unit energy consumption (also by vintage). Cumulative energy savings are the sum of the annual NES determined over a specified time period. The national NPV is the sum over time of the discounted net savings each year, which consists of the difference between total operating cost savings and increases in total installed costs. Critical inputs to this analysis include shipments projections, retirement rates (based on estimated product lifetimes), and estimates of changes in shipments and retirement rates in response to changes in product costs due to standards. In the preliminary TSD, section 2.9 of chapter 2 and chapter 10 each provide detail on the NIA.

DOE consulted with interested parties as part of its process for conducting all of the analyses and invites further input from the public on these topics. The preliminary analytical results are subject to revision following review and input from the public. A complete and revised TSD will be made available upon issuance of a NOPR. The final rule will contain the final analysis results and be accompanied by a final rule TSD.

DOE encourages those who wish to participate in the public meeting to obtain the preliminary TSD and to be prepared to discuss its contents. A copy of the preliminary TSD is available at the Web address given in the **SUMMARY** section of this notice. However, public meeting participants need not limit their comments to the topics identified in the preliminary TSD. DOE is also interested in receiving views concerning other relevant issues that participants believe would affect energy conservation standards for these products or that DOE should address in the NOPR.

Furthermore, DOE welcomes all interested parties, whether or not they participate in the public meeting, to submit in writing by March 2, 2009, comments and information on matters addressed in the preliminary TSD and on other matters relevant to

rulemaking process; see EISA 2007, at sec. 307. Given EISA 2007's revisions to EPCA, DOE is now using an alternative process to provide the same information and ability for public comment as the ANOPR, but without publication of analyses in the **Federal Register**.

consideration of standards for small electric motors.

The public meeting will be conducted in an informal, conference style. A court reporter will be present to record the minutes of the meeting. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by United States antitrust laws.

After the public meeting and the expiration of the period for submitting written statements, DOE will consider all comments and additional information that is obtained from interested parties or through further analyses, and it will prepare a NOPR. The NOPR will include proposed energy conservation standards for the products covered by the rulemaking, and members of the public will be given an opportunity to submit written and oral comments on the proposed standards.

Issued in Washington, DC, on December 19, 2008.

John F. Mizroch,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. E8-30985 Filed 12-29-08; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720-AB28; DoD-2008-HA-0073

TRICARE; Hospital-Based Psychiatric Partial Hospitalization Programs

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Proposed rule.

SUMMARY: This proposed rule will provide that TRICARE approval of a hospital is sufficient for its psychiatric partial hospitalization program (PHP) to be an authorized TRICARE provider. Upon implementation of this provision, separate TRICARE certification of hospital-based psychiatric PHPs would no longer be required. This rule will establish uniform requirements for recognizing a hospital-based PHP as an authorized TRICARE provider.

DATES: Written comments received at the address indicated below by March 2, 2009 will be accepted.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) number and title, by any of the following methods:

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

- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160.

Instructions: All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet, at <http://www.regulations.gov>, as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Tariq Shahid, Office of the Assistant Secretary of Defense (Health Affairs), TRICARE Management Activity, at (303) 676-3801.

SUPPLEMENTARY INFORMATION:

I. Background

TRICARE certification standards for psychiatric PHPs are defined in 32 CFR 199.6(b)(4)(xii) and further elaborated upon in the TRICARE Policy Manual. Currently, TRICARE authorized providers of psychiatric PHP services must have the Joint Commission accreditation and must comply with additional, detailed, unique TRICARE certification standards. Compliance with at least some of the unique TRICARE certification standards could require significant recurring staffing costs that psychiatric PHPs would not otherwise incur. Few facilities are willing or able to undergo this added TRICARE certification process, and it could adversely impact beneficiaries' access to psychiatric PHP care. Further, substance use disorder rehabilitation facilities are required to comply with unique TRICARE certification standards only if they are free-standing facilities (i.e., not part of a hospital). TRICARE does not require separate certification of hospital-based substance abuse PHPs. TRICARE approval of a hospital is sufficient for its substance abuse PHP to be an authorized TRICARE provider.

In late 2006, TRICARE established a working group to study the issues surrounding its behavioral health benefit. Recently, the working group completed its recommendations and developed several initiatives to improve TRICARE beneficiaries' access to behavioral health benefits. One of the recommendations was that TRICARE no longer impose its unique certification standards upon hospital-based psychiatric PHPs. Rather, TRICARE approval of a hospital be sufficient to

establish the hospital as an authorized provider of its PHP services to TRICARE beneficiaries.

Through this proposed rule, TRICARE will adopt the above recommendation. It will establish uniform requirements for recognizing a hospital-based PHP as an authorized TRICARE provider. It will provide a better balance between quality of PHP care and access to it than now exists. It will significantly increase the number of TRICARE authorized psychiatric PHPs, thereby potentially improving TRICARE beneficiaries' access to PHP care.

In accordance with the recommendations of the working group, the above change will be audited for a period of time to ensure no untoward effects upon the elimination of any unique TRICARE certification standards.

II. Regulatory Procedures

Section 801 of Title 5, United States Code, and EO 12866 requires certain regulatory assessments and procedures for any major rule or significant regulatory action, defined as one that would result in an annual effect of \$100 million or more on the national economy, or which would have other substantial impacts.

This is not a major rule under 5 U.S.C. 801 and it is not economically significant. It has been reviewed by the Office of Management and Budget as required under the provisions of Executive Order 12866.

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.

The Regulatory Flexibility Act requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

It has been certified that this rule will not significantly affect a substantial number of small entities.

This rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 55).

We have examined the impact of the rule under Executive Order (EO) 13132 and it does not have policies that have federalism implications that would have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and