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6450-01-P

DEPARTMENT OF ENERGY

[EERE-2020-BT-DET-0017]

Preliminary Analysis Regarding Energy Efficiency Improvements in ANSI/ASHRAE/IES Standard 90.1-2019

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

ACTION: Notice of availability.

SUMMARY: The U.S. Department of Energy (DOE) is announcing the availability of a Preliminary Energy Savings Analysis of ANSI/ASHRAE/IES Standard 90.1-2019 (Preliminary Analysis). DOE welcomes written comments from interested parties on any subject within the scope of this Preliminary Analysis.

DATES: DOE will accept written comments and information on the Preliminary Analysis no later than **[INSERT DATE 30 DAYS AFTER DATE OF**

PUBLICATION IN THE *FEDERAL REGISTER*]

ADDRESSES: A copy of the Preliminary Analysis is available at

https://www.energycodes.gov/sites/default/files/documents/20210407_Standard_90.1-2019_Determination_TSD.pdf.

Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *<http://www.regulations.gov>*. Follow the instructions for submitting comments.

Alternatively, interested persons may submit comments by email to the following address: *2019Standard2020DET0017@ee.doe.gov*. Include docket number **EERE-2020-BT-DET-0017** and/or RIN number 1904-AF12 in the subject line of the message.

Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

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 Covid-19 pandemic. DOE is currently accepting only electronic submissions at this time. If a commenter finds that this change poses an undue hardship, please contact the parties listed below 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, which includes *Federal Register* notices, comments, and other supporting documents/materials, is available for review at <http://www.regulations.gov>. All documents in the docket are listed in the <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. A link to the docket on can be found at: <http://www.regulations.gov/docket?D=EERE-2020-BT-DET-0017>. The <http://www.regulations.gov> web page will contain instructions on how to access all documents, including public comments, in the docket. See section II for further information on how to submit comments through <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Mr. Jeremiah Williams; U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., EE-5B, Washington, DC 20585.
Telephone: (202) 287-1941; Jeremiah.Williams@ee.doe.gov.

Mr. Matthew Ring; U.S. Department of Energy, Office of the General Counsel, 1000 Independence Avenue SW., GC-33, Washington, DC 20585; Telephone: (202) 586-2555; *Matthew.Ring@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Public Participation

I. Background

Title III of the Energy Conservation and Production Act, as amended (ECPA), establishes requirements for DOE to review consensus-based building energy conservation standards. (42 U.S.C. 6831 *et seq.*) Section 304(b), as amended, of ECPA provides that whenever the ANSI/ASHRAE/IESNA Standard 90.1-1989 (Standard 90.1-1989 or 1989 edition), or any successor to that code, is revised, the Secretary of Energy (Secretary) must make a determination, not later than 12 months after such revision, whether the revised code would improve energy efficiency in commercial buildings, and must publish notice of such determination in the *Federal Register*. (42 U.S.C. 6833(b)(2)(A)) If the Secretary makes an affirmative determination, within two years of the publication of the determination, each State is required to certify that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency with respect to the revised or successor code and include in its certification a demonstration that the provisions of its commercial building code, regarding energy efficiency, meet or exceed the revised Standard. (42 U.S.C. 6833(b)(2)(B)(i))

Standard 90.1-2019, the most recent edition, was published in October 2019,

triggering the statutorily required DOE review process. The Standard is developed under ANSI-approved consensus procedures¹, and is under continuous maintenance under the purview of an ASHRAE Standing Standard Project Committee (commonly referenced as SSPC 90.1). ASHRAE has an established program for regular publication of addenda, or revisions, including procedures for timely, documented, consensus action on requested changes to the Standard. More information on the consensus process and ANSI/ASHRAE/IES Standard 90.1-2019² is available at <https://www.ashrae.org/resources--publications/bookstore/standard-90-1>.

In addition, on January 20, 2021, the President issued Executive Order 13990, “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.” 86 FR 7037 (Jan. 25, 2021). The Executive Order directed DOE to consider publishing for notice and comment a proposed rule suspending, revising, or rescinding the final technical determination regarding the ASHRAE Standard 90.1-2016 by May 2021. *Id.* at 86 FR 7038. In response, DOE has conducted this preliminary analysis of Standard 90.1-2019 so that DOE’s determination under section 304(b) of ECPA reflects the most recent version of Standard 90.1, and to facilitate State and local adoption of the Standard, which will improve energy efficiency in the nation’s commercial buildings.

To meet the statutory requirement, DOE conducted a preliminary analysis to quantify the expected national energy savings associated with Standard 90.1-2019 relative to the previous 2016 version. The preliminary results of this analysis indicate national savings of:

- 4.7 percent *site* energy savings;

¹ See <https://www.ansi.org/aboutansi/overview/>

² ANSI – American National Standards Institute; ASHRAE – American Society of Heating, Refrigerating, and Air-Conditioning Engineers; IES – Illuminating Engineering Society.

- 4.3 percent *source* energy savings;
- 4.3 percent energy *cost* savings, and;
- 4.2 percent *carbon emissions*.

A copy of the Preliminary Analysis is available at

https://www.energycodes.gov/sites/default/files/documents/20210407_Standard_90.1-2019_Determination_TSD.pdf. DOE welcomes written comments from interested parties on any subject within the scope of the Preliminary Analysis.

States can experience significant benefits by updating their codes to reflect current construction standards, a total estimated \$51.59 billion in energy cost savings and 405.51 MMT of avoided CO₂ emissions in commercial buildings (cumulative 2010 through 2040), or \$2.24 billion in annual energy cost savings and 17.57 MMT in annual avoided CO₂ emissions (annually by 2030)³.

II. Public Participation

DOE will accept comments, data, and information regarding the Preliminary Analysis no later than the date provided in the **DATES** section at the beginning of this notice. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this notice.

Submitting comments via <http://www.regulations.gov>

The <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

³ <https://www.energycodes.gov/about/results>. Financial benefits are calculated by applying historical and future fuel prices to site energy savings and by discounting future savings to 2016 dollars. Historical and future real fuel prices are obtained through EIA's AEO 2015 report (EIA 2015). A real discount factor of 5% is applied to discount future energy cost savings.

Technologies Office 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. Do not submit to *http://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 *http://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 below.

DOE processes submissions made through *http://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 *http://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 <http://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, including 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 facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, 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, any person submitting information that he or she believes to be confidential and exempt by law from 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. Submit these documents via email. 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).

Signing Authority

This document of the Department of Energy was signed on April 15, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting 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 April 15, 2021

 Kelly Speakes-Backman  Digitally signed by Kelly Speakes-Backman
Date: 2021.04.15 21:11:33 -04'00'

Kelly Speakes-Backman
Principal Deputy Assistant Secretary
and Acting Assistant Secretary
Energy Efficiency and Renewable Energy