

DEPARTMENT OF ENERGY
FINDING OF NO SIGNIFICANT IMPACT

DOE/EA-2183

Final Rule, 10 CFR Parts 433 and 435, “Clean Energy for New Federal Buildings and Major Renovations of Federal Buildings”

RIN 1904-AB96

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

ACTION: Finding of No Significant Impact

SUMMARY:

DOE is required by Section 433 of the Energy Independence and Security Act (EISA) of 2007 (Pub. L. 110-140) to establish fossil fuel-generated energy consumption standards for new federal buildings and federal buildings undergoing major renovation. Section 433 of the EISA of 2007 modified section 305 of the Energy Conservation and Production Act (ECPA) by adding a new section 305(a)(3)(D) (42 U.S.C. 6834(a)(3)(D)), which requires DOE through regulation to update the energy efficiency requirements to incorporate limits on fossil fuel generated energy consumption.

Under the Proposed Action, DOE would revise the federal building energy efficiency standards by adding Scope 1 fossil fuel-based energy consumption standards for all new federal buildings and federal buildings undergoing major renovation.

The Proposed Action (referred to as the “Clean Energy for New Federal Buildings and Major Renovations of Federal Buildings” or the “Clean Energy Rule”) would apply to federal buildings, which more specifically includes new federal commercial and multi-family high-rise and low-rise residential buildings and major renovations to those buildings.

Based on the EA for the Final Rule (DOE/EA-2183), DOE has determined that revising the federal building energy efficiency standards to incorporate fossil fuel energy reduction targets would not be a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA). Therefore, an Environmental Impact Statement (EIS) is not required, and DOE is issuing this Finding of No Significant Impact (FONSI).

SUPPLEMENTARY INFORMATION

Description of the Proposed Action:

Under the Proposed Action, DOE would revise the federal building energy efficiency standards by adding Scope 1 fossil fuel-based energy consumption standards for all new federal buildings and federal buildings undergoing major renovation. The Proposed Action would update 10 CFR 433, “Energy Efficiency Standards for New Federal Commercial and Multi-Family High-Rise Residential Buildings,” and 10 CFR 435, “Energy Efficiency Standards for New Federal Low-Rise Residential Buildings” by adding the new Scope 1 fossil fuel-generated energy consumption requirements. For the purposes of this FONSI, EA and final rulemaking, Scope 1 refers to CEQ’s federal greenhouse gas accounting reporting guidance section 2.2.1 for generation of electricity, heat, cooling, or steam from fossil fuel sources only (biomass and biofuel are not a part of the rulemaking as they do not count as fossil fuels).

Specifically, the Proposed Action would require that federal agencies meet the following fossil fuel energy reductions as compared to DOE’s 2003 CBECS levels when constructing new buildings or doing major renovations to federal buildings, as shown in the following:

Fiscal Year	Percentage Reduction
2020	80
2025	90
2030	100

DOE notes that the energy efficiency portions of 10 CFR part 433 did not include any application to whole building major renovations. However, per the revised standards as part of the Clean Energy Rule, major renovations in buildings that meet the project cost threshold but are less than whole building renovations (meaning projects within an existing building comprising of retrofits to just a system (i.e., HVAC system) or a component (i.e., boiler)), agencies would now also be required to follow the following prescriptive efficiency performance requirements.

For component level renovations (i.e., just a product or piece of equipment), agencies are required to utilize electric or non-fossil fuel using Federal Energy Management Program (FEMP)-designated or ENERGY STAR equipment, which follow existing federal requirements for equipment efficiency (found in 10 CFR 436, subpart C, “Agency Procurement of Energy Efficient Products”). FEMP-designated and ENERGY STAR equipment has been previously analyzed to provide better life-cycle value compared to alternatives available on the market and as per 10 CFR 436 do not require additional cost benefit analysis when selected for one for one equipment replacement.

For system level renovations, agencies are required to utilize electric or non-fossil fuel using FEMP-designated or ENERGY STAR equipment, in alignment with 10 CFR 436 subpart C and also meet the system level requirements for the systems being renovated in the baseline standards (i.e., the applicable ASHRAE Standard 90.1 for federal commercial and high-rise multi-family buildings covered under 10 CFR 433 or the applicable International Energy Conservation Code

(IECC) for federal low-rise buildings covered under 10 CFR 435). DOE's final rule would make no other changes to the federal building energy efficiency standards.

Environmental Consequences:

DOE examined the potential environmental impacts of the Proposed Action by comparing the Proposed Action with the standards that federal agencies must achieve under the No Action Alternative (the baseline).

As a revised energy efficiency standard this final rule is not a site-specific action and thus many of the environmental impacts typically analyzed cannot apply or their application would be a part of the individual NEPA review for the specific project (taking into account the local context of the building or major renovation). Thereby, the resulting relevant affected environment of this rule is for public health and safety from its impacts on outdoor air quality. Further, per 42 U.S.C. 6834(a)(2)(C), federal agencies must consider (in consultation with the Environmental Protection Agency (EPA) and other federal agencies) and where appropriate contain measures regarding radon and other indoor air pollutants.

The proposed action would have both long- and short-term minor impacts on the expected emissions of affected federal building projects. Per the national level analysis presented in the EA, this final rule results in an overall savings of 1,291,538 metric tons of CO₂e emissions of over a 60-year analysis period (about 21,525 metric tons CO₂e annually). The first-year impact of the Proposed Action represents a change of only 0.0046 percent of the entire federal portfolio's 2020 CO₂e emissions from facility energy use.

Determination:

The final rule mandates that individual federal building projects must meet stricter energy efficiency (and energy sourcing) standards but places no requirement on federal agencies regarding the composition of methods they will employ to meet these standards. Any specific proposal by a federal agency to construct an individual new federal building or conduct a major renovation in a federal building may be subject to NEPA review by that federal agency, in accordance with that agency's legal authorities and NEPA implementing procedures.

Based on the EA and the above considerations, DOE finds that the Proposed Action is not a major action that constitutes a significant effect on the human environment. This finding and decision is based on the consideration of DOE's NEPA implementing regulations (10 CFR Part 1021). Accordingly, the Proposed Action does not require the preparation of an EIS.

For questions about this FONSI or the Final EA, please contact:
U.S. Department of Energy
Golden Field Office
15013 Denver West Parkway
Golden, Colorado 80401
GONEPA@ee.doe.gov

For information about the DOE NEPA process, please contact:
Office of NEPA Policy and Compliance
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585
<http://energy.gov/nepa/office-nepa-policy-and-compliance>

Issued in Golden, Colorado this 11th day of April 2024.

Marlys Kinsey
Acting Director, Golden Field Office