

DEPARTMENT OF ENERGY (DOE)**Statement of Regulatory Priorities**

The Department of Energy's (DOE's) 1995 Regulatory Plan reflects the Department's response to the President's challenge to all Federal agencies to help create a government that works better and costs less. DOE has met that challenge through a fundamental reexamination of what its work is and how it is conducted. DOE's plan highlights the following items:

- The results of DOE strategic planning efforts to define its mission and improve service to the public, which are expected to save taxpayers \$14.1 billion over the next 5 years;
- DOE's regulatory principles, which are to streamline its regulations, increase stakeholder involvement, and incorporate consensus and cooperation mechanisms in the process of developing rules and achieving mission objectives; and
- Major rulemaking efforts that implement the Department's mission and major initiatives.

DOE Overview*Mission*

The Department's five mission areas were identified, to assure more effective use of its unique scientific and technological assets, engineering expertise, and facilities, for the benefit of the Nation. They are:

- *Industrial Competitiveness*: Promote economic growth, competition, and the creation of high-wage jobs through research and development partnerships with industry, to drive products into the domestic and international marketplace and to help industry become more cost-effective.
- *Energy Resources*: Encourage efficiency and advance alternative and renewable energy technologies, increase energy choices for all consumers, assure adequate supplies of clean conventional energy, and reduce U.S. vulnerability to external events.
- *Science and Technology*: Use the unique resources of the Department's laboratories and the country's universities to maintain leadership in basic research, to increase applied research, and to maintain world technical leadership through long-term, systemic reform of science and mathematics education.
- *National Security*: Support and maintain a safe, secure, and reliable stockpile without nuclear testing; safely dismantle excess weapons; provide for safe and secure long-term

storage and disposition of surplus weapons-usable fissile materials; and provide the technical leadership for National and global nonproliferation activities.

- *Environmental Quality*: Understand and reduce the environmental, safety, and health risks associated with DOE facilities and operations and develop the technologies and institutions required for solving domestic and global environmental problems.

The regulatory initiatives summarized in the regulatory plan are an integral contribution to performing the Department's vital missions at dramatically reduced cost, while increasing the level of service to the American public.

**Eliminating and Improving Regulations
*Regulatory Approach and Guiding Principles***

With respect to its regulatory program, the Department has been engaged in a continuing, comprehensive review to make its rulemakings less burdensome, more cost-effective, and more responsive to the needs of our stakeholders.

The President's Regulatory Reform Initiative announced in February 1995 provided welcome emphasis to efforts already underway. The result of Presidential leadership and the Department's inclusive consultative approach has been a dramatic improvement in the Department's regulatory program. These improvements will benefit, among others: State governments; schools, hospitals, and other public care institutions; the electric and natural gas utility industry; and U.S. taxpayers.

The guiding principles for DOE's reinvention efforts are to:

- Involve the public and DOE stakeholders (i.e., our customers);
- Streamline regulations;
- Strip away non-value-added requirements and processes;
- Consider alternative approaches to regulation (e.g., the Department's voluntary Climate Challenge program); and
- Emphasize performance-based measures and best practices.

*Accomplishments***Reinvention of External Regulations**

In response to the President's Regulatory Reform Initiative, including a page-by-page review of all existing DOE regulations, the Department has targeted 75 percent of its regulations for elimination or reinvention. Specifically,

the Department has set the following goals:

- 34 percent of all CFR parts targeted for elimination;
- 41 percent of all CFR parts targeted for reinvention;
- 33 percent of all CFR pages targeted for elimination;
- 55 percent of all CFR pages targeted for reinvention.

The Department expects that the total number of pages in the Code of Federal Regulations will be reduced from almost 2,200 to under 1,500, with over 1,200 of those remaining pages slated for reinvention. To date DOE has eliminated 23 percent of its total CFR pages and remains committed to its goal of a 33 percent reduction.

On September 22, 1995, the Department published a final rule eliminating nonprocurement regulations made obsolete by the expiration or supersession of statutory authorities, or for which appropriations have not been available since the early 1980s. The result of the final rule is the elimination of 454 of the Department's CFR pages.

Reinvention of Procurement Regulations

The Department is aggressively pursuing efforts to reduce and streamline the Department of Energy Acquisition Regulation (DEAR).

The goals of the procurement regulation reduction effort are to:

- Reduce the volume of the DEAR by 50 percent;
- Streamline procurement operations;
- Reduce constraints, prescriptive requirements, and administrative processes;
- Make remaining requirements outcome—not process—oriented; and
- Define roles and responsibilities at the lowest appropriate level.

In May 1994, DOE published a final rule that eliminated 10 percent of the DEAR (59 FR 24357), and recently published, in September 1995, a final rule (60 FR 47304) to eliminate approximately another 15 percent from the regulation, which will bring the total DEAR reduction to date to 25 percent. Additional reductions will be achieved in fiscal year 1996 when significant amounts of material will be removed from the DEAR. The remaining portions of the DEAR will be revised to reflect performance-based measures and best business practices.

In September 1995, the Department published a final rule (60 FR 49512) amending its procurement regulations to identify purchasing system objectives and standards for DOE contractors,

eliminating the application of the so-called "Federal norm" for contracting, and placing greater reliance on commercial practices.

In November 1995, the Department expects to publish a proposed rule to implement key recommendations of the Department's Contract Reform Initiative. Changes are being proposed in the following areas associated with the Department's contracting activities: Fines, penalties, third-party liability, and property liability requirements for contractor make-or-buy plans; fee policy for profit-making entities; fee policy for non-profit-making entities; payment of fee laws, regulations, and Department directives; environment ownership of records; and contractor overtime. A related action, RIN 1992-AB09 on Competition for Management and Operating Contracts, will complete the Department's contract reform changes.

Reinvention of Internal Regulations

The Department is engaged in an accelerated effort to reduce the burden and increase the cost-effectiveness of orders governing its management and operating contractors, while protecting public safety, health, and the environment. As of September 30, 1995, the Department has achieved a 50 percent reduction in departmental orders. This complements the Secretary's Strategic Alignment Initiative to streamline departmental activities and fulfills the Secretary's commitment to the President to reduce the number of such orders from 312 to 156 by the end of fiscal year 1995.

Energy Efficiency Rulemakings

This year, the Department finalized a rule (60 FR 18326) establishing innovative Federal energy savings performance contracts that allow private contractors to retrofit Federal buildings to achieve energy efficiency savings at no cost to U.S. taxpayers. Contractors would share in energy use cost savings realized through these performance contracts.

Rewarding Results

With respect to its nuclear facilities and operations, the Department has emphasized performance-based results over prescriptive, process-laden approaches to health and safety regulation. By providing positive incentives to find and fix safety problems, the Department emphasizes compliance over enforcement to assure safety performance and continuous improvement.

The Department is implementing new contract approaches designed to give

contractors greater incentives for good performance, including safety performance. For example, DOE recently announced the award of a contract for cleanup of the Rocky Flats Environmental Technology Site. The new contract is the first that incorporates all elements of the Department's contract reform initiatives. The contract:

- Is performance-based in that the contractor is paid for results, with 85 percent of fees based on performance and only 15 percent of fees fixed;
- Has built-in incentives for cost savings and performance (shared by contractor and employees); and
- Is estimated to save \$1.2 billion compared to current projections under the existing contract.

Creating Grassroots Partnerships

Over the last 3 years, the Department has been working closely with its stakeholders, including the following, to improve its regulations.

Energy Efficiency Industry Partnerships

With respect to energy efficiency regulations, the Department has worked extensively with the regulated community to determine the costs and benefits of possible regulations. The Department, for example, has supported the activities of manufacturers, States, electric utilities, and energy efficiency advocates to recommend energy efficiency standards for refrigerators, refrigerator-freezers, and freezers. Moreover, the Department has initiated a review of the analytical methodologies used to assess options for energy efficiency regulations. In addition, the Department, working in partnership with affected stakeholders and in the context of the Department's review, will seek to develop consensus-based improvements to the energy efficiency standards rulemaking process.

Partnerships to Enhance Environment, Safety, and Health

The Office of Environment, Safety, and Health's Advisory Committee on External Regulation of DOE Nuclear Safety is an independent panel formed by the Secretary in February 1995. The Committee will recommend whether and how existing and new DOE nuclear facilities and operations might be externally regulated to best protect health, safety, and the environment; eliminate unnecessary oversight; and reduce costs. The Committee will develop its recommendations and submit them in 1995 to the Secretary of Energy and simultaneously to the Office

of Management and Budget and the Council on Environmental Quality.

Science and Technical Information Partnership

The Department has involved over 100 stakeholders in an effort to reduce the burden associated with the management of scientific and technical information generated by the Department and its contractors. As a result of this 6-month effort, 143 pages of prescriptive policy requirements have been replaced with an eight-page policy document with three outcome-based performance objectives for the DOE National Laboratories and other research contractors. The result of this effort has been significant cost and burden reduction, while improving public and industry access to the information emanating from the Department's \$6 billion annual investment in science and technology research.

Negotiate—Don't Dictate Rules

The Department is actively engaged in efforts to build consensus and to foster cooperation in the process of developing rules and achieving its mission objectives.

Energy Efficiency Standards and Test Procedures

The Department is encouraging product manufacturers, consumer groups, environmental organizations, and other interested parties to build consensus on energy efficiency rules for home appliances. On October 18, 1994, a coalition including the Association of Home Appliance Manufacturers and its members, the Natural Resources Defense Council, the American Council for an Energy Efficient Economy, and several State energy offices and utilities announced a landmark consensus on the efficiency levels that should be required in the next generation of refrigerators and freezers sold in the United States.

This agreement was the result of nearly 2 years of informal negotiations among the interested parties, supported by the Department with analytical and technical support. If adopted, it is estimated that these standards will result in refrigerators using 22 to 30 percent less electricity than today's new models, saving consumers \$13 billion and reducing carbon emissions by 5 million metric tons by 2010. The Department has challenged manufacturers, consumers, and environmental organizations to repeat the process for other appliances.

Climate Challenge Program

The Department has embarked upon an innovative program of cooperation with the electric utility industry to achieve cost-effective greenhouse gas emission reductions. The Climate Challenge Program is based on voluntary commitments by participating electric utilities to undertake actions to reduce, avoid, or sequester greenhouse gas emissions. The Department provides technical assistance, encouragement, and public recognition for utility participants.

Almost 500 utilities have joined the Climate Challenge Program to date, pledging to conclude projects with an estimated reduction potential of 46 million metric tons of carbon equivalent by the year 2000.

Waiving Penalties and Cutting Frequency of Reports

The Department is committed to streamlining its reporting requirements. In the area of management of DOE contractors alone, the Department eliminated 7,000 reporting requirements, resulting in estimated annual savings of \$48 million. This effort involved tossing out three large notebooks filled with detailed directives and replacing them with an 11-page document. The ultimate beneficiaries are American taxpayers, who will benefit from the increased flexibility and decreased costs associated with the operation of DOE research facilities.

DOE—Energy Efficiency and Renewable Energy (EE)

PROPOSED RULE STAGE

22. ENERGY EFFICIENCY STANDARDS FOR RESIDENTIAL APPLIANCES

Priority:

Economically Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6295

CFR Citation:

10 CFR 430.32

Legal Deadline:

Final, Statutory, January 1, 1992, For Water Heaters, Pool Heaters, Direct Heating Equipment, Mobile Home Furnaces, Kitchen Ranges and Ovens, etc.

Final, Statutory, January 1, 1994, For Central Air Conditioners, Heat Pumps, and Furnaces.

Final, Statutory, November 17, 1994, For Refrigerators, Refrigerator-Freezers, and Freezers.

Final, Statutory, May 14, 1996, For Dishwashers, Clothes Washers, and Clothes Dryers.

Abstract:

This is the initial review of the statutory standards for water heaters, pool heaters, direct heating equipment, mobile home furnaces, kitchen ranges and ovens, room air conditioners, fluorescent lamp ballasts, central air conditioners, heat pumps, and furnaces, to determine whether those levels need to be amended. This is the second reanalysis of the standards levels for refrigerators, refrigerator-freezers and freezers, dishwashers, clothes washers, and clothes dryers. These actions are covered by RINs 1904-AA38, 1904-AA47, 1904-AA67, 1904-AA75, 1904-AA76, 1904-AA77 and 1904-AA78. The proposed standards for television sets were withdrawn (RIN 1904-AA79).

At this time it appears that the Department's rulemaking actions with respect to energy efficiency standards for appliances may be restricted in fiscal year 1996 by a rider attached to the Interior and Related Agencies appropriations bill. This rider, if enacted, would prohibit the Department from using fiscal year 1996 appropriations for the issuance of any proposed or final energy efficiency standards for appliances. Because of this rider and an internal review of the processes and methodologies used to develop and analyze appliance standards, the Department has not developed revised schedules for these actions.

Statement of Need:

These standards are required by statute. Experience has shown that the choice of residential appliances purchased by both builders and homeowners is based on the initial cost rather than life cycle costs. Minimum energy efficiency standards for appliances eliminate economically inefficient products from the market and encourage industry to explore innovative ways to improve product performance.

Summary of the Legal Basis:

The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy-efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

Alternatives:

In conducting these reviews DOE considers a number of options, including retention of the existing standard and revised standards based on varying levels of stringency. The statute requires the Department to revise the standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination a large number of complex issues must be considered. Data and information are solicited from industry and the public at large. Engineering analysis to estimate the efficiency of various combinations of design options is conducted. Estimates of energy savings resulting from more stringent standards are made using the Lawrence Berkeley Laboratory Residential Energy Model, which forecasts the appliance purchase choices that households make as well as their subsequent appliance usage behavior and energy consumption. The effect of revised standards on an industry's profitability and scale of operation is also evaluated. The output of this analysis is the development of a proposal, which is published in a notice of proposed rulemaking for public comment.

The above process requires a great deal of effort and time to accomplish. The Department has been exploring methods to reduce the amount of effort and shorten the time required to accomplish the appliance standards rulemakings. In this regard, the Department recently has provided technical support and legal guidance to a group of refrigerator manufacturers, efficiency advocates, State energy offices and utilities involved in informal negotiations concerning standards for refrigerators. Department has recently provided technical support and legal of the Department's proposed rule. The general acceptance of environmentalists, State energy offices, and utilities involved in informal negotiations concerning standards for refrigerators and freezers. The

negotiated standards were used as the basis of the proposed rule. The general acceptance of negotiated standard levels by the interested parties prior to the proposal can lead to a more speedy final rule. This approach can also reduce the contention and divisiveness that is sometimes present in the traditional rulemaking process.

Anticipated Costs and Benefits:

These revised standards, combined with other market stimuli, are expected to yield energy savings worth about \$6 billion annually by the year 2010 and reduce greenhouse gas emissions from projected 2010 levels by 12 MMT of carbon equivalent. Redesign and retooling to produce products meeting these more stringent efficiency standards for these products are expected to require an investment in excess of \$800 million by the industry.

Risks:

Without appliance standards, energy use will continue to increase, with resulting damage to the environment caused by atmospheric emissions. Standards that are too stringent could result in excessive increases in the cost of the product, possible reductions in product utility and possible placing of such a burden on the industry as to cause some manufacturers to withdraw from the market, resulting in a loss of competition and jobs. On the other hand, enhancing appliance energy efficiency reduces atmospheric emissions of CO₂, NO_x and SO_x, or the costs of complying with existing emission limits.

Timetable:

CACs and Heat Pumps (RIN 1904-AA77)

ANPRM 09/08/93 (58 FR 47326)
NPRM 00/00/00
Final Action 00/00/00

Dishwashers, Clothes Washers and Dryers (RIN 1904-AA67)

ANPRM 11/14/94 (59 FR 56423)
NPRM 00/00/00
Final Action 00/00/00

Fluorescent Lamp Ballasts (RIN 1904-AA75)

ANPRM 09/28/90 (55 FR 39624)
NPRM 03/04/94 (59 FR 10464)
Revised NPRM 00/00/00
Final Action 00/00/00

Furnaces (RIN 1904-AA78)

ANPRM 09/08/93 (58 FR 47326)
NPRM 00/00/00
Final Action 00/00/00

Pool Heaters, Direct Heating Equip., etc. (RIN 1904-AA38)

ANPRM 09/28/90 (55 FR 39624)
NPRM 03/04/94 (59 FR 10464)
Final Action 00/00/00

Refrigerators and Freezers (RIN 1904-AA47)

ANPRM 09/08/93 (58 FR 47326)
NPRM 07/20/95 (60 FR 37338)
NPRM Comment Period End 11/02/95
Final Action 00/00/00

Water Heaters (RIN 1904-AA76)

ANPRM 09/28/90 (55 FR 39624)
NPRM 03/04/94 (59 FR 10464)
Revised NPRM 00/00/00
Final Action 00/00/00

Small Entities Affected:

None

Government Levels Affected:

State, Local

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RIN: 1904-AA38

DOE—Departmental and Others (ENDEP)

PROPOSED RULE STAGE

23. NUCLEAR SAFETY MANAGEMENT

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 2201; 42 USC 7191

CFR Citation:

10 CFR 830

Legal Deadline:

None

Abstract:

This action will add regulations under 10 CFR 830 to establish nuclear safety management requirements for the Department's nuclear facilities. These requirements stem from the Department's obligations to assure adequate protection and to hold contractors who manage and operate these facilities accountable and responsible for safe operations. Under phase 1 of this action, major requirements will include conduct of employees, safety analysis reports, technical safety requirements training, maintenance, unreviewed safety questions and occurrence reporting.

Under phase 2 of this action, major requirements will include nuclear design criteria, fire protection, natural phenomena hazards mitigation, and nuclear criticality safety. An initial phase adopted a quality assurance rule and definitions.

Statement of Need:

The purpose of this rule is to ensure that the Department's obligations to protect health and safety are fulfilled and to provide, if needed, a basis for the assessment of civil and criminal penalties consistent with the Price-Anderson Amendments Act of 1988. This action is consistent with the Department's commitment to the issuance of all new nuclear safety requirements to using notice and comment rulemaking.

Summary of the Legal Basis:

Under the Atomic Energy Act of 1954, as amended, the Department of Energy has the authority to regulate activities at facilities under its jurisdiction. The Department is committed to honoring its obligation to ensure the health and safety of the public and workers affected by its operations.

Alternatives:

The Department could continue to impose nuclear safety requirements through directives made applicable to DOE contractors through the terms of their contracts.

Anticipated Costs and Benefits:

The incremental costs of the proposed rules should be minimal because contractors are currently bound by comparable contractual obligations. Full compliance by contractors with nuclear safety standards will result in substantial societal benefits.

Risks:

This rulemaking should reduce the risk of nuclear safety problems by clarifying safety requirements applicable to DOE contractors and improving compliance.

Timetable:

Initial Phase

NPRM 12/09/91 (56 FR 64316)
Final Rule 04/05/94 (59 FR 15843)

Phase I

NPRM 12/09/91 (56 FR 64316)
Final Rule 03/00/96

Phase II

NPRM 12/00/95
Final Rule 12/00/96

Small Entities Affected:

None

Government Levels Affected:

None

Agency Contact:

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Phone: 301 903-4407

RIN: 1901-AA34

DOE—ENDEP**FINAL RULE STAGE****24. RADIATION PROTECTION OF THE PUBLIC AND THE ENVIRONMENT****Priority:**

Other Significant

Legal Authority:

42 USC 2201; 42 USC 7191

CFR Citation:

10 CFR 834

Legal Deadline:

None

Abstract:

This action would add a new 10 CFR 834 to DOE's regulations establishing a body of rules setting forth the basic requirements for ensuring radiation protection of the public and environment in connection with DOE nuclear activities. These requirements stem from the Department's ongoing effort to strengthen the protection of health, safety, and the environment from the nuclear, radiological, and chemical hazards posed by these DOE activities. Major elements of the proposal included a dose limitation system for protection of the public, requirements for liquid discharges; reporting and monitoring requirements; and residual radioactive material requirements.

Statement of Need:

The purpose of this rule is to ensure that the Department's obligations to protect health and safety are fulfilled and to provide, if needed, a basis for the assessment of civil and criminal penalties consistent with the Price-Anderson Amendments Act of 1988. This action is consistent with the Department's commitment to the issuance of all new nuclear safety requirements using notice and comment rulemaking.

Summary of the Legal Basis:

Under the Atomic Energy Act of 1954, as amended, the Department of Energy has the authority to regulate activities at facilities under its jurisdiction. The Department is committed to honoring its obligation to ensure the health and safety of the public and workers affected by its operations and the protection of the environs around its facilities.

Alternatives:

The Department could continue to impose nuclear safety requirements through directives made applicable to DOE contractors through the terms of their contracts.

Anticipated Costs and Benefits:

The incremental costs of the proposed rules should be minimal because contractors are currently bound by comparable contractual obligations. Full compliance by contractors with nuclear safety standards will result in substantial societal benefits.

Risks:

This rulemaking should reduce the risk of nuclear safety problems by clarifying safety requirements applicable to DOE contractors and improving compliance.

Timetable:

Action	Date	FR Cite
NPRM	03/25/93	58 FR 16268
NPRM Comment Period End	06/22/93	58 FR 16268
Final Action	03/00/96	

Small Entities Affected:

None

Government Levels Affected:

Federal

Agency Contact:

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RIN: 1901-AA38

DOE—Office of Procurement and Assistance Management (PR)**PROPOSED RULE STAGE****25. • CONTRACT REFORM****Priority:**

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 2201; 42 USC 7254

CFR Citation:

48 CFR 970

Legal Deadline:

None

Abstract:

This action would amend the Department of Energy Acquisition Regulation to implement certain key recommendations of the Department's contract reform initiative. Changes are made to the following areas: fines, penalties, third-party liability and property liability; requirements for contractor make-or-buy plans; fee policy for profit-making entities; fee policy for non-profit-making entities; payment of fee; laws, regulations, and Department directives; environment; ownership of records; and contractor overtime. A related action, RIN 1991-AB09 on Competition for Management and Operating Contracts, completes the Department's contract reform changes.

Statement of Need:

The purpose of this rule is to place into regulation those new policies, and changes to existing policies, to strengthen the management of the Department's management and operating contracts.

Summary of the Legal Basis:

Under Section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201) and section 644 of the Department of Energy Organization Act, Public Law 95-91 (42 U.S.C. 7254), the Department of Energy has the authority to enter into and perform contracts necessary to carry out functions vested in the Department and to prescribe such rules and regulations necessary to manage these contract activities.

Alternatives:

The Department could rely on the Federal Acquisition Regulation to describe regulatory requirements for contracts without addressing unique relationships that the Department has with its contractors.

Anticipated Costs and Benefits:

This action should save the Government costs, make contractors more accountable for their performance, and improve the quality of work performed through performance, and improve the quality of work performed through the Department's management and operating contracts.

Risks:

This rulemaking should reduce the risk that the Government does not receive reasonable value for work performed through management and operating contracts.

Timetable:

Action	Date	FR Cite
NPRM	11/00/95	

Small Entities Affected:

Undetermined

Government Levels Affected:

Undetermined

Procurement:

This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

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