

# 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 431

#### RIN 1904-AC04

#### Efficiency and Renewables Advisory Committee, Appliance Standards Subcommittee, Negotiated Rulemaking Subcommittee/Working Group for Liquid-Immersed and Medium-Voltage Dry Type Transformers

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

**ACTION:** Notice of open meeting.

**SUMMARY:** This document announces an open meeting of the Negotiated Rulemaking Working Group for Liquid-Immersed and Medium-Voltage Dry Type Transformers (hereafter "MV Group"). The MV Group is a working group within the Appliance Standards Subcommittee of the Efficiency and Renewables Advisory Committee (ERAC). The purpose of the MV Group is to discuss and, if possible, reach consensus on a proposed rule for regulating the energy efficiency of distribution transformers, as authorized by the Energy Policy Conservation Act (EPCA) of 1975, as amended, 42 U.S.C. 6313(a)(6)(C) and 6317(a). A separate Working Group on Low-Voltage Dry Type Transformers is being convened to discuss and, if possible, reach consensus on a proposed rule for regulating the energy efficiency of low-voltage transformers, as authorized by the Energy Policy Conservation Act (EPCA) of 1975, as amended, 42 U.S.C. 6313(a)(6)(C) and 6317(a) [76 FR 50148].

**DATES:** Thursday, September 15, 2011—9 a.m.–5 p.m.

Friday, September 16, 2011—9 a.m.–3 p.m.

**ADDRESSES:** Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Rooms 1E-245 and 8E-089, Washington, DC 20585. Please arrive at least 30 minutes early for building entry requirements, see the

Public Participation section for more information.

**FOR FURTHER INFORMATION CONTACT:** John Cymbalsky, U.S. Department of Energy, Office of Building Technologies (EE-2J), 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 287-1692. E-mail: John.Cymbalsky@ee.doe.gov.

#### SUPPLEMENTARY INFORMATION:

**Background:** DOE has decided to use the negotiated rulemaking process to develop proposed energy efficiency standards for distribution transformers. The primary reasons for using the negotiated rulemaking process for developing a proposed Federal standard is that stakeholders strongly support a consensual rulemaking effort and DOE believes such a regulatory negotiation process will be less adversarial and better suited to resolving the complex technical issues raised by this rulemaking. An important virtue of negotiated rulemaking is that it allows expert dialog that is much better than traditional techniques at getting the facts and issues right and will result in a proposed rule that will effectively reflect Congressional intent.

A regulatory negotiation will enable DOE to engage in direct and sustained dialog with informed, interested, and affected parties when drafting the proposed regulation that is then presented to the public for comment. Gaining this early understanding of all parties' perspectives allows DOE to address key issues at an earlier stage of the process, thereby allowing more time for an iterative process to resolve issues. A rule drafted by negotiation with informed and affected parties is more likely to maximize benefits while minimizing unnecessary costs than one conceived or drafted without the opportunity for sustained dialog among interested and expert parties. DOE anticipates that there will be a need for fewer substantive changes to a proposed rule developed under a regulatory negotiation process prior to the publication of a final rule.

To the maximum extent possible, consistent with the legal obligations of the Department, DOE will use the consensus of the advisory committee or subcommittee as the basis for the rule the Department proposes for public notice and comment.

**Membership:** The Members of the MV Group were chosen from nominations

submitted in response to the Department of Energy's call for nominations published in the **Federal Register** on Friday, July 29, 2011 [76 FR 45471]. The selections are designed to ensure a broad and balanced array of stakeholder interests and expertise on the negotiating working group for the purpose of developing a rule that is legally and economically justified, technically sound, fair to all parties, and in the public interest. All meetings are open to all stakeholders and the public, and participation by all is welcome within boundaries as required by the orderly conduct of business. The Members of the MV Group are as follows:

- Richard Anderson (Fayetteville PWC)
- Tim Ballo (Earthjustice)
- Scott Beck (Lakeview Metals)
- John Caskey (NEMA)
- Jerry Corkran (Cooper Power Systems)
- John Cymbalsky (DOE)
- Andrew DeLaski (ASAP)
- Tom Eckman (NWPow and Conservation Council)
- Gary Fernstrom (PG&E)
- Carlos Gaytan (GE Prolec)
- Robert Greeson (Federal Pacific)
- Bruce Hirsch (Baltimore Gas and Electric)
- Gerald Hodge (Howard Industries)
- Phil Hopkinson (HVOLT)
- Michael Hyland (APPA)
- David Millure (Metglas)
- Steve Nadel (ACEEE)
- Wes Patterson (ABB)
- Eric Petersen (AK Steel)
- Ray Polinski (Allegheny Ludlum)
- Steve Rosenstock (Edison Electric Institute)
- Robin Roy (NRDC)
- Robert Saint (NRECA)
- Chuck Simmons (Progress Energy)
- Mark Stoering (Xcel Energy; member of ERAC)

**Purpose of the Meeting:** To launch the process of seeking consensus on a proposed rule for the energy efficiency of liquid-immersed and medium-voltage dry type distribution transformers, as authorized by the Energy Policy Conservation Act (EPCA) of 1975, as amended, 42 U.S.C. 6313(a)(6)(C) and 6317(a).

**Tentative Agenda:** The meeting will start at 9 a.m. and will conclude at 5 p.m. on Thursday, September 15, 2011, in room 1E-245 and reconvene on

Friday, September 16, 2011, from 9 a.m. until 3 p.m. in room 8E-089. The tentative meeting agenda includes introductions, agreement on facilitator and rules of procedure, presentations from DOE consultants on the results of their revised analysis of alternative candidate standard levels, and identification of the issues to be addressed by the negotiations, and any outstanding data needs.

**Public Participation:** Members of the public are welcome to observe the business of the meetings and to make comments related to the issues being discussed at appropriate points, when called on by the moderator. The facilitator will make every effort to hear the views of all interested parties within limits required for the orderly conduct of business. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, e-mail [erac@ee.doe.gov](mailto:erac@ee.doe.gov) no later than 5 p.m., Thursday, September 8, 2011. Please include "MV Work Group 091511" in the subject line of the message. An early confirmation of attendance will help facilitate access to the building more quickly. In the e-mail, please provide your name, organization, citizenship and contact information. Space is limited.

Anyone attending the meeting will be required to present government-issued identification. Foreign nationals will be required, per DOE security protocol, to complete a questionnaire no later than one week prior to the meeting, Thursday, September 8, 2011.

Participation in the meeting is not a prerequisite for submission of written comments. ERAC invites written comments from all interested parties. If you would like to file a written statement with the committee, you may do so either by submitting a hard or electronic copy before or after the meeting. Electronic copy of written statements should be e-mailed to [erac@ee.doe.gov](mailto:erac@ee.doe.gov).

**Minutes:** The minutes of the meeting will be available for public review at <http://www.erac.energy.gov>.

Issued in Washington, DC, on August 29, 2011.

**LaTanya R. Butler,**

*Acting Deputy Committee Management Officer.*

[FR Doc. 2011-22457 Filed 9-8-11; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 1140

[Docket No. FDA-2011-N-0467]

RIN 0910-AG43

#### Non-Face-to-Face Sale and Distribution of Tobacco Products and Advertising, Promotion, and Marketing of Tobacco Products

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Food and Drug Administration (FDA) is issuing this advance notice of proposed rulemaking (ANPRM) to obtain information related to the regulation of non-face-to-face sale and distribution of tobacco products and the advertising, promotion, and marketing of tobacco products. FDA is taking this action as part of its implementation of the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act). FDA is requesting comments, data, research, or other information related to non-face-to-face sale and distribution of tobacco products; the advertising, promotion, and marketing of such products; and the advertising of tobacco products via the Internet, e-mail, direct mail, telephone, smart phones, and other communication technologies that can be directed to specific recipients.

**DATES:** Submit either electronic or written comments by December 8, 2011.

**ADDRESSES:** You may submit comments, identified by Docket No. FDA-2011-N-0467 and/or RIN number 0910-AG43, by any of the following methods:

#### Electronic Submissions

Submit electronic comments in the following way:

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

#### Written Submissions

Submit written submissions in the following ways:

- *FAX:* 301-827-6870.
- *Mail/Hand delivery/Courier (for paper, disk, or CD-ROM submissions):* Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**Instructions:** All submissions received must include the Agency name and Docket No. FDA-2011-N-0467 and

Regulatory Information Number (RIN 0910-AG43) for this rulemaking. All comments received may be posted without change to <http://www.regulations.gov>, including any personal information provided. For additional information on submitting comments, see the "Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>, insert the docket number found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Beth Buckler, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850-3229, 877-287-1373, [beth.buckler@fda.hhs.gov](mailto:beth.buckler@fda.hhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Tobacco Control Act, enacted on June 22, 2009, amends the Federal Food, Drug, and Cosmetic Act (the FD&C Act) and provides FDA with the authority to regulate tobacco products (Pub. L. 111-31, 123 Stat. 1776). Among other things, the Tobacco Control Act requires FDA to issue regulations, by October 1, 2011, regarding the sale and distribution of tobacco products that occur through means other than a direct, face-to-face exchange between a retailer and a consumer (*i.e.*, a non-face-to-face or remote sale) in order to prevent the sale and distribution of tobacco products to individuals who have not attained the minimum age established by applicable law for the purchase of such products, including requirements for age verification (section 906(d)(4)(A)(i) of the FD&C Act (21 U.S.C. 387f(d)(4)(A)(i))). The Tobacco Control Act also requires FDA to issue regulations, by April 1, 2012, to address the promotion and marketing of tobacco products that are sold or distributed through a non-face-to-face exchange in order to protect individuals who have not attained the minimum age established by applicable law for the purchase of such products (section 906(d)(4)(A)(ii)). Furthermore, section 906(d)(1) of the FD&C Act provides that the Secretary of Health and Human Services (the Secretary) may by regulation require restrictions on the sale and distribution of a tobacco product, including restrictions on the access to, and the advertising and