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Federal Commercial/Multi-Family High-Residential Buildings: U.S. Department of Energy Final Rule Addressing Baseline Energy Efficiency Standards

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The United States Department of Energy (“DOE”) published a final rule updating the baseline federal energy efficiency performance standards for the construction of new federal commercial and multi-family high-residential buildings. See 87 Fed. Reg. 20267.

DOE states it is publishing the final rule to implement provisions in the Energy Conservation and Production Act (“ECPA”).

Section 305 of the ECPA requires DOE to determine whether the energy efficiency standards for new federal buildings should be updated to reflect revisions to ASHRAE Standard 90.1 based on the cost-effectiveness of the revisions. Therefore, DOE states it conducted a cost-effectiveness analysis. The federal agency is stated to have determined that ASHRAE Standard 90.1-2019 is cost-effective for new federal commercial and multi-family high-rise residential buildings.

DOE states that the assumptions and methodologies for the cost-effectiveness of the rule were based on the federal agency’s State effective analysis of the ASHRAE Standard 90.1-2016 and ASHRAE Standard 90.1-2019. They are stated to provide the basis for the environmental assessment for the rulemaking. As a result, DOE updated the efficiency standards for new federal buildings to ASHRAE Standard 90.1-2019 for buildings for which design for construction begins one year after the rule has been published in the Federal Register.

The final rule also limits the types of process and receptacle loads that may be excluded from the calculation of the 30 percent improvement beyond ASHRAE Standard 90.1 by revising 10 CFR 433.101(b) to require that federal agencies include unregulated energy use when calculating the 30 percent improvement beyond ASHRAE Standard 90.1. Excepted are energy intensive process loads that are driven by:

1. mission and operational requirements, not necessarily buildings, and
2. not influenced by conventional building energy conservation measures.

This action is stated to have been taken to ensure consistency with ASHRAE Standard 90.1-2019.

The final rule also amends the definition for “new federal buildings” that is found in 10 CFR 433.2. It is amended to include buildings leased by federal agencies and privatized military housing in accordance with amendments to the underlying statutory definition of the term made by the Energy Independence and Security Act of 2019.

A copy of the Federal Register notice can be found [here](#).