II. Background


The energy conservation standards for residential water heaters adopted in the April 2010 final rule will apply to products manufactured on or after April 16, 2015. 75 FR 20234 (April 16, 2010). The amended energy conservation standards consist of minimum energy factors (EF) that vary based on the rated storage volume of the water heater, the type of energy it uses (i.e., gas, oil, or electricity), and whether it is a storage, instantaneous, or tabletop model. 10 CFR 430.32(d) Of particular relevance to this notice, electric water heaters with a rated storage volume of the water heater, active, standby, and cyclical operation.


The energy conservation standards for residential water heaters adopted in the April 2010 final rule will apply to products manufactured on or after April 16, 2015. 75 FR 20234 (April 16, 2010). The amended energy conservation standards consist of minimum energy factors (EF) that vary based on the rated storage volume of the water heater, the type of energy it uses (i.e., gas, oil, or electricity), and whether it is a storage, instantaneous, or tabletop model. 10 CFR 430.32(d) Of particular relevance to this notice, electric water heaters with a rated storage volume of 55 gallons (referred to hereinafter as “large-volume” electric storage water heaters) will be required to have an energy factor of at least 2.057 – 0.00113 × Rated Storage Volume in gallons. Id. Such a level is currently achievable only by using heat pump water heater technology and cannot be achieved in electric water heaters that rely solely on electric resistance elements.

Subsequent to the publication of the April 2010 final rule, several stakeholders indicated to DOE their concerns about the interaction of the amended standards in the April 2010 final rule and the use of large-volume electric storage water heaters in utility ETS programs. To gather additional information on the impact of the amended standard established in the April 2010 final rule on ETS programs that use large-volume electric storage water heaters, DOE issued a request for information (RFI) and received numerous additional comments on these topics. 77 FR 35299 (June 13, 2012). After considering comments submitted by interested parties, DOE published a notice of proposed rulemaking (NPR) proposing to establish a waiver process to allow any manufacturer, utility, or a combination of the two to request a waiver granting an exemption from the amended energy conservation standards established in the April 2010 final rule for certain large-volume electric storage water heaters used in an ETS program. 78 FR 12969 (Feb. 26, 2013). As proposed, each waiver would have allowed manufacturers to produce, for a 1-year period, a limited number of large-volume electric storage water heaters that would not otherwise meet the April 2010 amended standard levels, provided that a specific set of features are included and conditions are met to ensure their use exclusively in utility ETS programs. More information on DOE’s waiver proposal and stakeholder feedback can be found in the rulemaking docket.4

III. Discussion

By this document, DOE withdraws its February 26, 2013 NOPR. DOE commissioned a study to examine the capability of large-capacity water heaters, both resistance and heat pump, to support ETS programs and found both water heater types worked for such programs. For additional discussion of the capability of using large-volume electric storage water heaters that meet the April 2010 amended standard levels to support utility ETS programs, see the following reports: http://www.pnl.gov/main/publications/external/technical_reports/PNNL-23527.pdf and http://www.pnl.gov/main/publications/external/technical_reports/PNNL–23697.pdf.

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this withdrawal.

Issued in Washington, DC, on March 26, 2015.

Roland Risser,
Acting Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2015–07706 Filed 4–2–15; 8:45 am]
BILLING CODE 6450–01–P

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3 Energy factor is a measure of overall water heater efficiency that accounts for efficiency during active, standby, and cyclical operation.

FOR FURTHER INFORMATION CONTACT:
Coleen Havyrsko—Group Manager,
ATO Safety Programs, Federal Aviation
Administration, 490 L’Enfant Plaza,
Suite 7200, Washington, DC 20024 or
via email at coleen.havyrsko@faa.gov or
phone at 202–267–8807.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to
participate in this proposed designation
by submitting such written data, views,
or arguments, as they may desire.
Comments that provide the factual basis
supporting the views and suggestions
presented are particularly helpful in
developing reasoned regulatory
decisions on the proposal. Comments
are specifically invited on the overall
regulatory, aeronautical, economic,
environmental, and energy-related
aspects of the proposal.

Communications should clearly
identify docket number FAA–2014–
0142 and be submitted in triplicate to
the Docket Management System (see
ADDRESSES section for address
and phone number). Commenters wishing
the FAA to acknowledge receipt of their
comments on this action must submit
with those comments a self-addressed
stamped postcard on which the
following statement is made:
“Comments to FAA–2014–0142. The
postcard will be date/time stamped and
returned to the commenter.

All communications received on or
before the closing date for comments
will be considered before taking action
on the proposed rule. The proposal
contained in this action may be changed
in light of comments received. All
comments submitted will be available
for examination in the public docket
both before and after the closing date
for comments. A report summarizing each
substantive public contact with FAA
personnel concerned with this proposed
designation will be filed in the docket.

Availability of This Proposed
Designation

An electronic copy of this document
may be downloaded through the
Internet at http://www.regulations.gov.
Recently published rulemaking
documents can also be accessed through
the FAA’s Web page at http://www.gov/
airports_airtraffic/air_traffic/
publications.

You may review the public docket
containing the proposal, any comments
received, and any final disposition in
person in the Dockets Office (see the
ADDRESSES section for the address
and phone number) between 9:00 a.m. and
5:00 p.m., Monday through Friday, except federal holidays. An informal
docket may also be examined during
normal business hours at the Northwest
Mountain Regional Office of the Federal
Aviation Administration, Air Traffic
Organization, Western Service Center,
Operations Support Group, 1601 Lind
Avenue SW., Renton, WA 98057.

You can get an electronic copy using
the Internet by:
1. Searching the Department of
Transportation’s electronic Docket
Management System (DMS) Web page;
http://www.regulations.gov;
2. Visiting the FAA’s Regulations and
Policies Web page at http://www.faa.gov/
regulations_policies;
or
3. Accessing the Government
Publishing Office’s Web page at http://

Privacy Act: Using the search function
of our docket Web site, anyone can find
and read the comments received into
any of our dockets, including the name
of the individual sending the comment
(or signing the comment on behalf of an
association, business, labor union, etc.).
You may review DOT’s complete
Privacy Act Statement in the Federal
Register published on April 11, 2000
(65 FR 19477) or you may visit http://
www.regulations.gov.

Background

Under Title 49 of the United States
Code (49 U.S.C.), section 40123, certain
voluntarily provided safety and security
information is protected from disclosure
in order to encourage persons to provide
the information. The FAA must first
issue an Order that specifies why the
agency finds that the information
should be protected in accordance with
49 U.S.C., section 40123. The FAA’s
rules for implementing that section are
in 14 CFR part 193. If the Administrator
issues an Order designating information
as protected under 49 U.S.C., section
40123, that information will not be
disclosed under the Freedom of
Information Act (Title 5 of the United
States Code (5 U.S.C.), section 552) or
other laws, except as provided in 49
U.S.C. 40123, 14 CFR part 193, and the
Order designating the information as
protected. This Order is issued under
part 193, section 193.11, which sets out
the notice procedure for designating
information as protected.

2. Applicability

This proposed designation is
applicable to any FAA office that
receives information covered under this
designation from the SAFER–FCT
Program or the ATSAP–X Program, both
of which will be incorporated in FAA
Order 7200.20, Voluntary Safety
Reporting Programs. The proposed
designation would also apply to any
other government agency that receives
such information from the FAA. For any
other government agency to receive
SAFER–FCT or ATSAP–X information
covered under the proposed designation
from the FAA, each such agency must first
stipulate, in writing, that it will abide by
the provisions of part 193 and the
Order designating the SAFER–FCT
and ATSAP–X information as protected
from public disclosure under 14 CFR
part 193.

3. Summary

a. Qualified Participants. Region X
employees who are covered under the
Consolidated Collective Bargaining
agreement (CBA) between NATCA and
the FAA effective May 22, 2013, or its
successor, and other employees
identified in FAA Order 7200.22 which
will be incorporated in FAA Order 7200.20,
are eligible to complete a
ATSAP–X report for events that occur
while acting in that capacity. Vendor
employees Union or Non-Union who are
covered under the FAA and the Federal
Contract Tower September 2011
contract, or its successor, and other
employees identified in FAA Order 7200.20
are eligible to complete a
SAFER–FCT report for events that occur
while acting in that capacity.

b. Voluntarily-Provided Information
Protected From Disclosure Under the
Proposed Designation

Except for SAFER–FCT or ATSAP–X
reports that involve possible criminal
conduct, substance abuse, controlled
substances, alcohol, or intentional
falsification, the following information
would be protected from disclosure:
(1) the content of any report
concerning an aviation safety or security
matter that is submitted by a qualified
participant under the SAFER–FCT or
ATSAP–X that is accepted into either
program, including the SAFER–FCT or
ATSAP–X report, and the name of the
submitter of the report. Notwithstanding
the foregoing, mandatory information
about occurrences that are required to
be reported under FAA Orders or ATO
guidance is not protected under this
designation, unless the same
information has also been submitted or
reported under other procedures
prescribed by the Agency. The
exclusion is necessary to assure that the
information protected under this
designation has been voluntarily
submitted. It also permits changes to
ATO Orders and guidance without
requiring a change to this designation.
(2) Any evidence gathered by the
Event Review Committee during its
investigation of a safety- or security-
related event reported under SAFER–FCT or ATSAP–X, including the SAFER–FCT or ATSAP–X investigative file.

Note: The type of information or circumstances under which the information listed above would not be protected from disclosure is discussed in paragraph 3.b of this Order.

c. Ways to Participate. FAA employees who are qualified participants register for, and submit a report into, the system.

d. Duration of This Information-Sharing Program. This program continues as long as it is provided for by Order or a collective bargaining agreement.

4. Findings

The FAA designates information received from a SAFER–FCT or ATSAP–X submission as protected under 49 U.S.C. 40123 and 14 CFR 193.7, based on the following findings:

a. Summary of why the FAA finds that the information will be provided voluntarily. The FAA finds that the information will be provided voluntarily. This finding is supported by the significant increase in reports of safety-related matters since the implementation of voluntary safety reporting programs. No FAA or Vendor employee is required to participate in the SAFER–FCT or ATSAP–X.

b. Description of the type of information that may be voluntarily provided under the program and a summary of why the FAA finds that the information is safety-related.

(1) The following types of reports are ordinarily submitted under the SAFER–FCT or ATSAP–X:

i. Noncompliance reports.

Noncompliance reports identify specific instances of a failure to follow FAA directives.

ii. Aviation safety concern reports.

Aviation safety concerns that do not involve specific noncompliance with FAA directives. These may include, but are not limited to potential safety events or perceived problems with policies, procedures, and equipment.

(2) Region X employees support the design, delivery and efficiency of flight services throughout the National Airspace System (NAS) facilities, systems and equipment. Reports submitted by these employees under ATSAP–X ordinarily involve matters or observations occurring during the performance of their job responsibilities, and therefore the information submitted is inherently safety related. Vendor employees provide and support the provision of air traffic services at Federal Contract Tower facilities throughout the NAS. Reports submitted by these employees under SAFER–FCT ordinarily involve occurrences or problems identified or experienced during the performance of their job responsibilities which directly affect safety.

c. Summary of why the FAA finds that the disclosure of the information would inhibit persons from voluntarily providing that type of information.

The FAA finds that disclosure of the information would inhibit the voluntary provision of that type of information. Employees are unwilling to voluntarily provide detailed information about safety events and concerns, including those that might involve their own failures to follow Agency directives and policies, if such information could be released publicly. If information is publicly disclosed, there is a strong likelihood that the information could be misused for purposes other than to address and resolve the reported safety concern. Unlawful conduct can provide assurance that safety-related reports will be withheld from public disclosure, employees will not participate in the programs.

Summary of why the receipt of that type of information aids in fulfilling the FAA’s safety responsibilities.

The FAA finds that receipt of information in SAFER–FCT or ATSAP–X reports aids in fulfilling the FAA’s safety responsibilities. Because of its capacity to provide early identification of needed safety improvements, this information offers significant potential for addressing hazards that could lead to incidents or accidents. In particular, one of the benefits of both the SAFER–FCT and ATSAP–X is that they encourage the submission of narrative descriptions of occurrences that provide more detailed information than is otherwise available. The SAFER–FCT and ATSAP–X have produced safety-related data that is not available from any other source. Receipt of this previously unavailable information has provided the FAA with an improved basis for modifying procedures, policies, and regulations to improve safety and efficiency.

d. Consistencies and inconsistencies with FAA safety responsibilities.

The FAA finds that withholding SAFER–FCT and ATSAP–X information from public release is consistent with the FAA’s safety responsibilities, because it encourages individuals to provide important safety information that it otherwise might not receive.

(1) Withholding SAFER–FCT and ATSAP–X information from disclosure, as described in this designation, is consistent with the FAA’s safety responsibilities. Without the Agency’s ability to assure that the detailed information reported under these programs, which often explains why the event occurred or describes underlying problems, will not be disclosed, the information will not be provided to the FAA. Employees are concerned that public release of the information could result in potential misuses of the information that could affect them negatively. If the FAA does not receive the information, the FAA and the public will be deprived of the opportunity to make the safety improvements that could otherwise be achieved.

Corrective action under SAFER–FCT and ATSAP–X can be accomplished without disclosure of protected information. For example, for acceptance under both programs, the reporting employee must comply with Event Review Committee recommendations for corrective action, such as additional training for an employee. If the employee fails to complete corrective action in a manner satisfactory to all members of the Event Review Committee, the event may be referred to an appropriate office within the FAA for any additional investigation, reexamination, and/or action, as appropriate.

(2) The FAA may release SAFER–FCT or ATSAP–X information submitted to the agency, as specified in Part 193 and this Order. For example, to explain the need for changes in FAA policies, procedures, and regulations, the FAA may disclose de-identified, summarized information that has been derived from SAFER–FCT or ATSAP–X reports or extracted from the protected information listed under paragraph 5b. The FAA may disclose de-identified, summarized SAFER–FCT or ATSAP–X information that identifies a systemic problem in the NAS, when a party needs to be advised of the problem in order to take corrective action. Under the current version of FAA Order NJO 7200.20, reported events and possible violations may be subject to investigation, reexamination, and/or action. Although the report itself and the content of the report are not used as evidence, the FAA may use the knowledge of the event or possible violation to generate an investigation, and, in that regard, the information is not protected from disclosure. To withhold information from such limited release would be inconsistent with the FAA’s safety responsibilities. In addition, reports that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or...
intentional falsification will be referred to an appropriate FAA office for further handling. The FAA may use such reports for enforcement purposes, and will refer such reports to law enforcement agencies, if appropriate. To withhold information in these circumstances would be inconsistent with the agency’s safety responsibilities because it could prevent, or at least diminish the FAA’s ability to effectively address egregious misconduct.

5. Designation

The FAA designates the information described in paragraph 5b to be protected from disclosure in accordance with 49 U.S.C., section 40123 and 14 CFR part 193.

Issued in Washington, DC on March 27, 2015.

Michael P. Huerta,
Administrator, Federal Aviation Administration.

[Dates:
Comments and requests for a public hearing must be received by July 2, 2015.

ADDRESSES: Send submissions to:
CC:PA:LPD:PR (REG–133489–13), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–133489–13), Courier’s Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Submissions may also be sent electronically via the Federal eRulemaking Portal at www.regulations.gov (IRS REG–133489–13). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:
Concerning the regulations, James A. Holmes, (202) 317–4137; concerning submission of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Oluwafunmilayo (Funmi) Taylor at (202) 317–6900 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in the Rules and Regulations section of this issue of the Federal Register amend the Income Tax Regulations (26 CFR part 1) relating to section 41. The temporary regulations amend §§ 1.41–6, 1.45G–1, and 1.280C–4. The regulations are being prescribed to update the regulations in a manner that is consistent with the amendments made to sections 41(f)(1)(A)(ii) and 41(f)(1)(B)(iii) in Section 301(c) of the Act. The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to those regulations explains the amendments.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at www.regulations.gov or upon request.

A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the Federal Register.

Drafting Information

The principal author of these regulations is James A. Holmes, Office of Associate Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read, in part as follows:

Authority: 26 U.S.C. 7805 * * *
Section 1.41–6 also issued under 26 U.S.C. 41(f)(1) * * *
Section 1.45G–1 also issued under 26 U.S.C. 45G(e)(2) * * *
Section 1.280C–4 also issued under 26 U.S.C. 280C(c)(4) * * *

Par. 2. Section 1.41–6 is amended to read as follows:

§ 1.41–6. Aggregation of expenditures.

[TThe text of the amendments to this proposed section is the same as the text of § 1.41–6T published elsewhere in this issue of the Federal Register].

Par. 3. Section 1.45G–1 is amended to read as follows:

§ 1.45G–1. Railroad track maintenance credit.

[TThe text of the amendments to this proposed section is the same as the text