

# 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 430

[Docket No. EERE-2008-BT-STD-0012]

RIN 1904-AB79

#### Energy Conservation Standards for Residential Refrigerators, Refrigerator-Freezers, and Freezers: Public Meeting and Availability of the Preliminary Technical Support Document

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

**ACTION:** Notice of public meeting and availability of preliminary technical support document.

**SUMMARY:** The U.S. Department of Energy (DOE) will hold an informal public meeting to discuss and receive comments on the product classes that DOE plans to analyze for purposes of amending energy conservation standards for residential refrigeration products; the analytical framework, models, and tools that DOE is using to evaluate standards for these products; the results of preliminary analyses performed by DOE for these products; and potential energy conservation standard levels derived from these analyses that DOE could consider for these products. DOE also encourages written comments on these subjects. To inform stakeholders and facilitate this process, DOE has prepared an agenda, a preliminary Technical Support Document (TSD), and briefing materials, which are available at: [http://www1.eere.energy.gov/buildings/appliance\\_standards/residential/refrigerators\\_freezers.html](http://www1.eere.energy.gov/buildings/appliance_standards/residential/refrigerators_freezers.html).

**DATES:** The Department will hold a public meeting on December 10, 2009, from 9 a.m. to 5 p.m. in Washington, DC. Any person requesting to speak at the public meeting should submit such request, along with an electronic copy of the statement to be given at the public meeting, before 4 p.m., November 25, 2009. Written comments are welcome, especially following the public meeting,

and should be submitted by no later than January 15, 2010.

**ADDRESSES:** The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E-089, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Please note that foreign nationals participating in the public meeting are subject to advance security screening procedures. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting Ms. Brenda Edwards at (202) 586-2945 so that the necessary procedures can be completed.

Interested persons may submit comments, identified by docket number EERE-2008-BT-STD-0012, by any of the following methods:

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

- *E-mail:* [ResRefFreez-2008-STD-0012@hq.doe.gov](mailto:ResRefFreez-2008-STD-0012@hq.doe.gov). Include EERE-2008-BT-STD-0012 in the subject line of the message.

- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, Public Meeting for Refrigerators, Refrigerator-Freezers, and Freezers, EERE-2008-BT-STD-0012, 1000 Independence Avenue, SW., Washington, DC 20585-0121. *Phone:* (202) 586-2945. Please submit one signed paper original.

- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 6th Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024. *Phone:* (202) 586-2945. Please submit one signed paper original.

**Instructions:** All submissions received must include the agency name and docket number or RIN for this rulemaking.

**Docket:** For access to the docket to read background documents, a copy of the transcript of the public meeting, or comments received, go to the U.S. Department of Energy, 6th Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024, (202) 586-2945, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at (202) 586-2945 for additional information regarding visiting the Resource Room. Please note that the Department's Freedom of Information Reading Room

(formerly Room 1E-190 at the Forrestal Building) no longer houses rulemaking materials.

#### FOR FURTHER INFORMATION CONTACT:

Lucas Adin, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121. *Phone:* (202) 287-1317. *e-mail:* [lucas.adin@ee.doe.gov](mailto:lucas.adin@ee.doe.gov) or Michael Kido, U.S. Department of Energy, Office of General Counsel, GC-72, 1000 Independence Avenue, SW., Washington, DC 20585-0121. *Phone:* (202) 586-9507. *e-mail:* [michael.kido@hq.doe.gov](mailto:michael.kido@hq.doe.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. Statutory Authority

Part A of Title III of the Energy Policy and Conservation Act of 1975 (EPCA), 42 U.S.C. 6291 *et seq.*, established an energy conservation program for major household appliances, which includes residential refrigerators, refrigerator-freezers, and freezers.<sup>1</sup> This program authorizes the Department to establish energy efficiency standards for certain consumer products. Any new or amended standard for these products must (1) achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified, and (2) result in significant conservation of energy. (42 U.S.C. 6295(o)(2)(A)) To determine whether a proposed standard is economically justified, DOE must, after receiving comments on the proposed standard, determine whether the benefits of the standard exceed its burdens to the greatest extent practicable, weighing the following seven factors:

1. The economic impact of the standard on manufacturers and consumers of products subject to the standard;

2. The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance

<sup>1</sup> Part A of Title III of EPCA, which focuses on consumer products, and the corresponding Part A-1, which governs certain commercial and industrial equipment, were originally titled Parts B and C, respectively. For editorial reasons, Parts B and C were redesignated as Parts A and A-1 in the United States Code.

expenses for the covered products which are likely to result from the imposition of the standard;

3. The total projected amount of energy savings likely to result directly from the imposition of the standard;

4. Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

5. The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

6. The need for national energy conservation; and

7. Other factors the Secretary considers relevant.

(See 42 U.S.C. 6295(o)(2)(B)(i))

Prior to proposing a standard for public comment, DOE typically seeks public input on the analytical framework, models, and tools that DOE will use to evaluate standards for the product at issue; the results of preliminary analyses performed by DOE for the product; and potential energy conservation standard levels derived from these analyses that DOE could consider.

## B. History of Standards Rulemaking for Refrigerators, Refrigerator-Freezers, and Freezers

### 1. Background

The National Appliance Energy Conservation Act of 1987 (NAECA), Pub. L. 100–12 (March 17, 1989), amended EPCA and established energy conservation standards for refrigerators, refrigerator-freezers, and freezers. See 42 U.S.C. 6295(b). It also required DOE to decide whether these standards should be amended and to conduct two rounds of rulemakings.

On November 17, 1989, DOE published a final rule in the **Federal Register** updating the performance standards. The new standards became effective on January 1, 1993. 54 FR 47916. Subsequently, DOE determined that new standards for some of the product classes were based on incomplete data and incorrect analysis, which prompted the publication of a correction notice. See 55 FR 42845 (Oct. 24, 1990). The notice amended the new standards for the following three product classes: (1) Refrigerators and refrigerator-freezers with manual defrost, (2) refrigerator-freezers with automatic defrost with a bottom-mounted freezer but without through-the-door (TTD) ice service, and (3) chest freezers and all other freezers. *Id.* In 1997, DOE updated the performance standards once again for refrigerators,

refrigerator-freezers, and freezers by publishing a final rule in the **Federal Register** on April 28, 1997. 62 FR 23102. The new standards became effective on July 1, 2001. By completing a second standards rulemaking, DOE had fulfilled its legislative requirement to conduct two cycles of standards rulemakings.

A coalition including utility companies, consumer and low-income advocacy groups, environmental and energy efficiency organizations, and the California Energy Commission submitted a petition in 2004 requesting that DOE conduct another rulemaking to amend the standards for residential refrigerator-freezers. (June 1, 2004 Petition, Last accessed 9/9/09, <http://www.standardsasap.org/documents/rfdoe.pdf>) In April 2005, DOE granted the petition and conducted a limited set of analyses to assess the potential energy savings and potential economic benefit of new standards. (See, e.g., “Energy Department Grants Petition for New Refrigerator Energy Efficiency Standards”, ACEEE press release, April 13, 2005, Last accessed 9/9/09, <http://www.aceee.org/press/0504doepetition.htm>) DOE issued a report in October 2005 detailing the analyses, which examined the technological and economic feasibility of new standards set at Energy Star levels effective in 2005 for the two most popular product classes of refrigerators: top-mount refrigerator-freezers without TTD features and side-mount refrigerator-freezers with TTD features. Depending on assumptions regarding the impact that standards would have on market efficiency, DOE estimated that amended standards at the 2005 ENERGY STAR levels would yield energy savings of up to 2.4 to 3.4 quadrillion British thermal units (Btu), with an associated economic impact to the Nation ranging from a burden or cost of \$1.2 billion to a benefit or savings of \$3.3 billion. (*Technical Report: Analysis of Amended Energy Conservation Standards for Residential Refrigerator-Freezers*, U.S. Department of Energy, October 2005, Last accessed 9/9/09, [http://www1.eere.energy.gov/buildings/appliance\\_standards/pdfs/refrigerator\\_report\\_1.pdf](http://www1.eere.energy.gov/buildings/appliance_standards/pdfs/refrigerator_report_1.pdf)).

In October 2005, DOE published draft data sheets containing energy savings potentials for refrigerator-freezers as part of its fiscal year 2006 schedule-setting process. (*2006 Draft Rulemaking Activities Data Sheets*, Appliance Standards, Building Technologies Program, U.S. Department of Energy, October 2005, Last Accessed 9/9/09, [http://www1.eere.energy.gov/buildings/appliance\\_standards/pdfs/2006\\_activities\\_data\\_sheets.pdf](http://www1.eere.energy.gov/buildings/appliance_standards/pdfs/2006_activities_data_sheets.pdf)). The

data sheets were based on the October 2005 draft technical report analyzing potential new amended energy conservation standards for residential refrigerator-freezers described above. The technical report and the associated data sheets provided input to the setting of priorities for rulemaking activities.

### 2. Current Rulemaking Process

The Energy Independence and Security Act of 2007 (EISA), Public Law 110–140 (Dec. 19, 2007), requires DOE to publish a final rule by December 31, 2010, to determine whether to amend the standards in effect for refrigerators, refrigerator-freezers, and freezers manufactured on or after January 1, 2014. See EISA, Sec. 311(a)(3) (codified at 42 U.S.C. 6295(b)(4)). As part of this rulemaking, if a positive determination is made, DOE must also include any amended standards. To comply with these new requirements, the Department published on its website the Energy Conservation Standards Rulemaking Framework Document for Residential Refrigerators, Refrigerator-Freezers, and Freezers (the framework document) to explain the issues, analyses, and process that it anticipated using for the development of energy efficiency standards for these products. This document is available at: [http://www1.eere.energy.gov/buildings/appliance\\_standards/residential/pdfs/refrigerator\\_freezer\\_framework.pdf](http://www1.eere.energy.gov/buildings/appliance_standards/residential/pdfs/refrigerator_freezer_framework.pdf) (Last accessed 9/9/09). DOE also published a notice announcing the availability of the framework document and a public meeting to discuss the proposed analytical framework, and inviting written comments concerning the development of standards for the residential refrigeration products. 73 FR 54089 (September 18, 2008).

DOE held a public meeting on September 29, 2008 to discuss the analyses and issues identified in various sections of the framework document. At the meeting, DOE described the different analyses it would conduct, the methods proposed for conducting them, and the relationships among the various analyses. Manufacturers, trade associations, environmental advocates, regulators, and other interested parties attended the meeting. Comments received since publication of the framework document helped identify issues for DOE to address in developing a proposed standard and provided information contributing to DOE’s proposed resolution of these issues.

### C. Summary of the Analyses Performed by DOE

For each of the residential refrigeration products currently under

consideration, DOE conducted in-depth technical analyses in the following areas: (1) Engineering; (2) markups to determine product price; (3) energy-use characterization; (4) life-cycle cost (LCC) and payback period (PBP) analyses; and (5) national impact analysis (NIA). These analyses resulted in a preliminary TSD that presents the methodology and results of each of these analyses. The preliminary TSD is available at the Web address given in the **SUMMARY** section of this notice. The analyses are described in more detail below.

DOE also conducted several other supplemental analyses that will be expanded upon in the notice of proposed rulemaking (NOPR).<sup>2</sup> These analyses include the market and technology assessment, the screening analysis, which contributes to the engineering analysis, and the shipments analysis, which contributes to the NIA. In addition to these analyses, DOE has begun some preliminary work on the manufacturer impact analysis (MIA) and identified the methods to be used for the LCC subgroup analysis, the environmental assessment, the employment analysis, the regulatory impact analysis, and the utility impact analysis. DOE will expand on these analyses in the NOPR.

### 1. Engineering Analysis

The engineering analysis establishes the relationship between the cost and efficiency of a product DOE is evaluating for amended energy conservation standards. This relationship serves as the basis for cost-benefit calculations for individual consumers, manufacturers, and the Nation. The engineering analysis identifies representative baseline products, which is the starting point for analyzing technologies that provide energy efficiency improvements. The term "baseline product" refers to a model or models having features and technologies typically found in products currently offered for sale. The baseline model in each product class represents the characteristics of products in that class and, for products already subject to energy conservation standards, is usually a model that just meets the current standard. After identifying the baseline models, DOE estimated manufacturer selling prices through an analysis of (1) manufacturer costs, and (2) markups, which are the multipliers

used to determine the manufacturer selling prices based on manufacturing cost. Chapter 5 of the preliminary TSD discusses the engineering analysis.

### 2. Markups To Determine Product Prices

DOE derives consumer prices for products based on manufacturer, retailer, distributor, contractor, and builder markups, as well as sales taxes. Collectively, these items comprise the markups affecting product pricing. In deriving these markups, DOE has determined (1) the distribution channels for product sales; (2) the markup associated with each party in the distribution channels; and (3) the existence and magnitude of differences between markups for baseline products (baseline markups) and for more-efficient products (incremental markups). DOE calculates both overall baseline and overall incremental markups based on the product markups at each step in the distribution channel. The overall incremental markup relates the change in the manufacturer sales price of higher-efficiency models (the incremental cost increase) to the change in the retailer or distributor sales price. Chapter 6 of the preliminary TSD discusses the estimation of markups.

### 3. Energy Use Characterization

The energy use characterization provides estimates of annual energy consumption for the residential refrigeration products, which DOE uses in the LCC and PBP analyses and the NIA. DOE developed energy consumption estimates for all of the product classes analyzed in the engineering analysis, as the basis for its energy use estimates. Chapter 7 of the preliminary TSD discusses the energy use characterization.

### 4. Life-Cycle Cost and Payback Period Analyses

The LCC and PBP analyses determine the economic impact of potential standards on individual consumers. The LCC is the total consumer expense for a product over the life of the product. The LCC analysis compares the LCCs of products designed to meet possible energy conservation standards with the LCCs of the products likely to be installed in the absence of standards. DOE determines LCCs by considering (1) total installed cost to the purchaser (which consists of manufacturer selling price, sales taxes, distribution chain markups, and installation cost); (2) the operating expenses of the products (energy use and maintenance); (3) product lifetime; and (4) a discount rate that reflects the real consumer cost of capital and puts the LCC in present-

value terms. The PBP represents the number of years needed to recover the increase in purchase price (including installation cost) of more efficient products through savings in the operating cost of the product. It is the change in total installed cost due to increased efficiency divided by the change in annual operating cost from increased efficiency. Chapter 8 of the preliminary TSD discusses the LCC and PBP analyses.

### 5. National Impact Analysis

The NIA estimates the national energy savings (NES) and the net present value (NPV) of total consumer costs and savings expected to result from new standards at specific efficiency levels. DOE calculated NES and NPV for each efficiency level as the difference between a base-case forecast (without new standards) and the standards case forecast (with standards). DOE determined national annual energy consumption by multiplying the number of units in use (by vintage) by the average unit energy consumption (also by vintage). Cumulative energy savings are the sum of the annual NES determined over a specified time period. The national NPV is the sum over time of the discounted net savings each year, which consists of the difference between total operating cost savings and increases in total installed costs. Critical inputs to this analysis include shipments projections, retirement rates (based on estimated product lifetimes), and estimates of changes in shipments and retirement rates in response to changes in product costs due to standards. Chapter 10 of the preliminary TSD discusses the NIA.

DOE consulted with stakeholders and other interested persons as part of its process for conducting all of the analyses and invites further input from the public on these topics. The preliminary analytical results are subject to revision following review and input from the public. The final rule will contain the final analysis results.

The Department encourages those who wish to participate in the public meeting to obtain the preliminary TSD and to be prepared to discuss its contents. A copy of the preliminary TSD is available at the Web address given in the **SUMMARY** section of this notice. However, public meeting participants need not limit their comments to the topics identified in the preliminary TSD. The Department is also interested in receiving views concerning other relevant issues that participants believe would affect energy conservation standards for these products or that DOE should address in the NOPR.

<sup>2</sup> Section 307 of the Energy Independence and Security Act of 2007, Public Law 110-140, amended section 325(p) of EPCA (42 U.S.C. 6295(p)) to remove a requirement that DOE publish an advance notice of proposed rulemaking. Thus, the first regulatory action in this proceeding will be publication of a notice of proposed rulemaking.

Furthermore, the Department welcomes all interested parties, whether or not they participate in the public meeting, to submit in writing by January 15, 2010, comments and information on matters addressed in the preliminary TSD and on other matters relevant to consideration of standards for refrigerators, refrigerator-freezers, and freezers.

The public meeting will be conducted in an informal, conference style. A court reporter will be present to record the minutes of the meeting. Discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by United States antitrust laws is prohibited.

After the public meeting and the expiration of the period for submitting written statements, the Department will consider all timely comments and additional information that is obtained from interested parties or through further analyses, and it will prepare an NOPR. The NOPR will include proposed energy conservation standards for the products covered by this rulemaking, and members of the public will be given an opportunity to submit written and oral comments on the proposed standards.

Issued in Washington, DC, on November 9, 2009.

**Cathy Zoi,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

[FR Doc. E9-27396 Filed 11-13-09; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Parts 1 and 23

[Docket No. FAA-2009-0738; Notice No. 09-09]

RIN 2120-AJ22

#### Certification of Turbojets; Extension of Comment Period

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM); extension of comment period.

**SUMMARY:** This action extends the comment period for an NPRM that was published on August 17, 2009. In that document, the FAA proposed to amend applicable standards for part 23 turbojet-powered airplanes—which are commonly referred to as “turbojets”—to reflect the current needs of industry, accommodate future trends, address emerging technologies, and provide for

future airplane operations. This extension is a result of Cessna Aircraft Company’s request to extend the comment period for the proposal.

**DATES:** The comment period for the NPRM published on August 17, 2009 (74 FR 41522) was scheduled to close on November 16, 2009, and is extended until December 16, 2009.

**ADDRESSES:** You may send comments identified by Docket Number FAA-2009-0738 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M-30, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590.
- *Fax:* Fax comments to Docket Operations at 202-493-2251.
- *Hand Delivery:* Bring comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

*Privacy:* We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. 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 for 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 19477-78) or you may visit <http://DocketsInfo.dot.gov>.

*Docket:* To read background documents or comments received, go to <http://www.regulations.gov> at any time or to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Pat Mullen, Regulations and Policy, ACE-111, Federal Aviation Administration, 901 Locust Street, Kansas City, MO 64106; telephone (816) 329-4111.

**SUPPLEMENTARY INFORMATION:**

#### Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, please send only one copy of written comments, or if you are filing comments electronically, please submit your comments only one time.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

#### Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

- (1) Searching the Federal eRulemaking Portal at <http://www.regulations.gov>;
- (2) Visiting the Office of Rulemaking’s Web page at <http://www.faa.gov/avr/arm/index.cfm>; or
- (3) Accessing the Government Printing Office’s Web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number or notice number of this rulemaking.

#### Proprietary or Confidential Business Information

Do not file in the docket information that you consider to be proprietary or confidential business information. Send or deliver this information directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. You must mark the information that you consider proprietary or confidential. If you send the information on a disk or CD-ROM, mark the outside of the disk or CD-ROM and also identify electronically within