

Policy's National Technical Assistance, Policy, and Research Center for Employers.

#### *Types of Priorities*

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

*Absolute priority:* Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

*Competitive preference priority:* Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

*Invitational priority:* Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

*Final Priority:* We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

**Note:** This notice does not solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

*Executive Order 12866:* This notice has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this proposed regulatory action.

The potential costs associated with this proposed regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this proposed regulatory action, we have determined that the benefits of the proposed priority justify the costs.

#### *Discussion of Costs and Benefits*

The benefits of the Disability and Rehabilitation Research Projects and Centers Programs have been well established over the years in that similar projects have been completed successfully. This proposed priority will generate new knowledge through research and development activities.

Another benefit of this proposed priority is that the establishment of a new RRTC will support the research and will improve the lives of individuals with disabilities. The new RRTC will generate, disseminate, and promote the use of new information that will improve the options for individuals with disabilities to obtain, retain, and advance in employment.

#### **Intergovernmental Review**

This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

*Accessible Format:* Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 5075, PCP, Washington, DC 20202-2550. Telephone: (202) 245-7363. If you use a TDD, call the FRS, toll-free, at 1-800-877-8339.

*Electronic Access to This Document:* You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

Dated: January 8, 2010.

**Alexa Posny,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

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**BILLING CODE 4000-01-P**

#### **DEPARTMENT OF ENERGY**

#### **Additional Guidance Regarding Application of Current Procedures for Testing Energy Consumption of Refrigerator-Freezers With Automatic Ice Makers**

**AGENCY:** Office of the General Counsel, U.S. Department of Energy.

**ACTION:** Notice.

**SUMMARY:** This notice announces the Department of Energy's (DOE) guidance to ensure the consistent application of DOE's current test procedure to refrigerator-freezers with French doors, bottom-mounted freezers, and through-the-door (TTD) ice service (French door TTD models). This Guidance was issued on December 18, 2009.

**FOR FURTHER INFORMATION CONTACT:** Ms. Stephanie Weiner at 202-586-9648.

**SUPPLEMENTARY INFORMATION:** The Energy Policy and Conservation Act of 1975, as amended, (EPCA or the Act) requires the Department of Energy (DOE or the Department) to prescribe standardized test procedures to measure the energy consumption of certain consumer products. See 42 U.S.C. 6293, 6295(r). The Department's current test procedure for residential refrigerator-freezers is set forth at 10 CFR Part 430, Subpart B, Appendix A1, Uniform Test Method for Measuring the Energy Consumption of Electric Refrigerators and Electric Refrigerator-Freezers (Appendix A1). DOE issues this guidance to ensure the consistent application of the current test procedure to refrigerator-freezers with French doors, bottom-mounted freezers, and through-the-door (TTD) ice service (French door TTD models).

Appendix A1 requires products to be tested in accordance with the relevant sections of Association of Home Appliance Manufacturers (AHAM) standard HRF-1-1979 (HRF-1). See Appendix A1, section 2.2; 47 FR 34517 (Aug. 10, 1982). HRF-1 specifies that “automatic ice makers are to be inoperative during the test” (“ice maker exclusion”). See HRF-1, section 7.4.2. HRF-1 defines “automatic ice maker” as “[a] device, connected to a water supply, which automatically produces, harvests, and stores ice in a storage bin, with means to automatically interrupt the harvesting operation when the bin is filled to a predetermined amount.” *Id.* at sec. 3.5.

At the time when AHAM developed and DOE adopted HRF-1, refrigerator-freezer models equipped with automatic ice makers located the ice maker in the freezer compartments, rather than separate ice compartments outside the

freezer. Further, ice maker controls were generally electro-mechanical (*i.e.* the electrical switches in the controls that turn functions on and off are operated by mechanical action). Thus, since the test procedure was adopted, DOE has typically applied HRF-1's ice maker exclusion by raising the baling arm bar of an automatic ice maker into its upright locked position, which stops ice production during normal operation. More specifically, this action stops the harvesting functions—the process of freeing or removing ice pieces from the ice mold of an automatic ice maker. Preventing the removal of ice from the ice mold, in turn, stops the subsequent activation of solenoid valves that allow the flow of more water into the ice maker. This longstanding test procedure renders the ice maker inoperative without affecting any energy-using functions of the product beyond active ice making operations. It most accurately reflects the real-world energy use of these devices because it includes in the efficiency calculation the energy used whenever the ice maker is powered on (as it will be most, if not all, of the time in normal household use), while excluding from the efficiency calculation the additional energy used when the ice maker is operative—*i.e.*, when it is *actively* making and harvesting ice. The additional energy that is used during these periods of active operation is excluded in recognition that these active ice making functions occur only intermittently—when the ice maker senses that the ice bin is not full.

Over the last few years, several manufacturers have introduced French door refrigerator-freezer models with bottom-mounted freezers and TTD ice service, which are designed to permit ice to be produced, stored, and dispensed at a consumer-friendly height through the door. The ice compartment is typically a special insulated compartment located within the fresh food compartment or mounted on one of the fresh food compartment doors. As these French door TTD models grew in number, DOE became aware that design variations led to the use of ice making components, such as the fill tube heater and ice ejection heater, that may consume energy beyond that used when the ice maker is actively making and harvesting ice. As a result, in some designs, turning the ice maker and its components off results in the machine using significantly less energy than when the ice maker is on, but not making ice.

In January 2009, DOE posted on its Web site a short statement on the application of this test procedure to

refrigerator-freezers with automatic ice makers. See [http://www.energystar.gov/index.cfm?c=refrig.pr\\_refrigerators](http://www.energystar.gov/index.cfm?c=refrig.pr_refrigerators). That January statement made clear that an ice storage bin must be maintained at a temperature to prevent the ice from melting during testing. We also stated that under DOE's test procedure, energy consumed by components that interact with the ice maker, but are not involved in making ice, must be included in calculating a product's reported total energy use.

We understand that, despite our consistent past practice and prior efforts to be clear, some manufacturers may have misapplied our test procedure with respect to ice making components in French door TTD models. DOE issues this guidance to eliminate any lingering inconsistency in the application of our procedure to these refrigerator-freezers. Specifically, we make clear our consistent view that, under the current test procedure, ice makers and all ice making components—including the fill tube heater and ice ejection heater—must be on and functioning as they would be when the icemaker is not actively making ice. The ice maker and all ice making components—including the fill tube heater and ice ejection heater—may be rendered “inoperative” by preventing the machine from making ice during the test, such as by creating a condition in which the machine senses a full bin of ice. Turning the ice maker and/or its components off during the test is not permitted because it may improperly exclude energy beyond that used during the intermittent periods when the ice maker is operative—*i.e.*, when it is actively making ice.

This application of the ice maker exclusion to French door TTD models follows from the plain language and intent of our test procedure, comports with the purpose of the Act, and is consistent with nearly 30 years of DOE understanding and practice. As stated above, HRF-1 specifies that “automatic ice makers are to be inoperative during the test.” See HRF-1, section 7.4.2. DOE interprets “inoperative” by reference to the definition of an automatic ice maker. HRF-1 defines “automatic ice maker” as “[a] device, connected to a water supply, which automatically produces, harvests, and stores ice in a storage bin, with means to automatically interrupt the harvesting operation when the bin is filled to a predetermined amount.” *Id.* at sec. 3.5 (emphasis added). Thus, an ice maker is “inoperative” when the ice maker has “interrupt[ed] the harvesting operation,” such as when the unit senses that “the bin is filled to a predetermined amount.” As described above, such an action prevents the machine from

making ice, by stopping the harvesting of ice, which in turn stops the production of additional ice, without affecting the energy consumed by other refrigerator-freezer functions.

Our application is also informed by EPCA's underlying purpose of advancing energy efficiency. 42 U.S.C. 6201(5). In authorizing DOE to promulgate test procedures, the Act provides that “[a]ny test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency \* \* \* of a covered product during a representative average use cycle or period of use.” 42 U.S.C. 6293(b)(3). Guided by this provision, we apply our test procedures, to the extent possible, to reflect the energy consumed during representative consumer use. In our view, keeping the ice maker and its associated components on, but preventing them from making ice, better represents the average use of a refrigerator-freezer, such as when the machine has a full bin of ice in a consumer's home. Turning off either the ice maker or components associated with the ice maker, by contrast, does not represent the average use of a refrigerator-freezer, and may cause the machine to consume less energy than when the ice maker is on, but not making ice.

Finally, we emphasize that—far from a change to our existing view—this clarification of DOE's interpretation of HRF-1 is consistent with DOE's longstanding practice with respect to the ice maker exclusion. DOE has never interpreted the ice maker exclusion in our current test procedure to allow manufacturers to turn the ice maker or its components off. Rather, as described above, since this test procedure was adopted over twenty-seven years ago, DOE has applied the ice maker exclusion with the view that the ice maker should be on but prevented from making ice. Indeed, the advent of French door TTD models reinforces the importance of DOE's pre-existing approach, which ensures that the exclusion is narrowly targeted to exempt only active ice making energy from a product's total energy consumption.

This guidance, which reflects nearly 30 years of Department practice, represents the Department's interpretation of the existing test procedure. It is not intended to create or remove any rights or duties, nor is it intended to affect any other aspect of EPCA or DOE regulations. This guidance was originally issued on December 18, 2009, at <http://www1.eere.energy.gov/buildings/>

*appliance\_standards/residential/pdfs/if\_test\_procedure\_addl\_guidance.pdf.*

Dated: January 8, 2010.

**Scott Blake Harris,**  
*General Counsel.*

[FR Doc. 2010-570 Filed 1-13-10; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. IC10-538-000, IC10-539-000, IC10-577-000, IC10-606-000, and IC10-607-000]

### Commission Information Collection Activities (FERC-538, FERC-539, FERC-577, FERC-606, and FERC-607); Comment Request; Extensions

January 7, 2010.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of proposed information collections and request for comments.

**SUMMARY:** In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104-13), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the specific aspects of the information collections described below.

**DATES:** Comments in consideration of the collections of information are due March 16, 2010.

**ADDRESSES:** Comments may be filed either electronically or in paper format, and should refer to Docket Nos. IC10-538-000, IC10-539-000, IC10-577-000, IC10-606-000, and IC10-607-000. For comments that only pertain to some of the collections, specify the appropriate collection(s) and related docket number(s). Documents must be prepared in an acceptable filing format and in compliance with the Federal Energy Regulatory Commission submission guidelines at <http://www.ferc.gov/help/submission-guide.asp>.

Comments may be filed electronically via the eFiling link on the Commission's Web site at <http://www.ferc.gov>. First time users will have to establish a user name and password (<http://www.ferc.gov/docs-filing/registration.asp>) before eFiling. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments through eFiling. Commenters filing electronically should not make a paper filing.

Commenters that are not able to file electronically must send their

comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

Users interested in receiving automatic notification of activity in this docket may do so through eSubscription at <http://www.ferc.gov/docs-filing/esubscription.asp>. In addition, all comments and FERC issuances may be viewed, printed or downloaded remotely through FERC's Web site using the "eLibrary" link and searching on Docket Numbers IC10-538, IC10-539, IC10-577, IC10-606, and IC10-607. For user assistance, contact FERC Online Support at: [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY).

#### FOR FURTHER INFORMATION CONTACT:

Ellen Brown may be reached by telephone at (202) 502-8663, by fax at (202) 273-0873, or by e-mail at [ellen.brown@ferc.gov](mailto:ellen.brown@ferc.gov).

**SUPPLEMENTARY INFORMATION:** For the purpose of publishing this notice and seeking public comment, FERC requests comments on the following information collections:

- **FERC-538**, Gas Pipeline Certificate: Section 7(a) Mandatory Initial Service, contained in 18 CFR Part 156; OMB Control No. 1902-0061;
- **FERC-539**, Gas Pipeline Certificates: Import/Export Related, contained in 18 CFR Parts 153 and 157; OMB Control No. 1902-0062;
- **FERC-577**, Gas Pipeline Certificates: Environmental Impact Statement, identifies FERC's information collections relating to 18 CFR Part 380 implementing NEPA and includes the environmental compliance conditions of 18 CFR 157.206(b); OMB Control No. 1902-0128;
- **FERC-606**, Notification of Request for Federal Authorization and Requests for Further Information, contained in 18 CFR Part 385; OMB Control No. 1902-0241; and
- **FERC-607**, Report on Decision or Action on Request for Federal Authorization, contained in 18 CFR Part 385; OMB Control No. 1902-0240.

The associated regulations, information collections, burdens, and OMB clearance numbers will continue to remain separate and distinct.

**FERC-538.** Under the Natural Gas Act (NGA) (Public Law 75-688) (15 U.S.C. 717-717w), upon application by a local distribution company or municipality, a natural gas pipeline company may be ordered by the Commission to extend or improve transportation facilities, to establish physical connections to serve, and to sell natural gas to the applicant. Filings pursuant to the provisions of

Section 7(a) of the NGA are to contain all information necessary to advise the Commission fully concerning the service which the applicant has requested the Commission to direct the natural gas pipeline company to render (such as a request to direct a natural gas company to extend or improve its transportation facilities, and to sell natural gas to the municipality or person and, for such purpose, to extend its transportation facilities to communities immediately adjacent to such facilities or to territories served by the natural gas pipeline company).

**FERC-539.** Section 3 of the Natural Gas Act (NGA) (Public Law 75-688) (15 U.S.C. 717-717w) provides, in part, that “\* \* \* no person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order from the Commission authorizing it to do so.” The 1992 amendments to Section 3 of the NGA concern importation or exportation from/to a nation which has a free trade agreement with the United States, and requires that such importation or exportation: (1) Shall be deemed to be a “first sale”, i.e., not a sale for a resale, and (2) Shall be deemed to be consistent with the public interest, and applications for such importation or exportation shall be granted without modification or delay.

With the ratification of the North American Free Trade Agreement and the Canadian Free Trade Agreement, the Federal regulatory focus on construction, operation, and siting of import and export facilities increased significantly.

**FERC-577.** Section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA) (Pub. L. 91-190) requires that all Federal agencies must include in every recommendation or report on proposals for legislation and other major federal actions significantly affecting the quality of the human environment, a detailed statement on: the environmental impact on the proposed actions; any adverse environmental effects which cannot be avoided should the proposal be implemented; alternatives to the proposed action; the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and any irreversible and irretrievable commitment of resources which would be involved in the proposed action should it be implemented.

**FERC-606 and FERC-607.** Section 313 of EPAct 2005 directs the Commission: (1) To establish a schedule for state and federal agencies and officers to act on