

pursuant to paragraphs (b), (c), (d), (e), (f), (j), (k) and (l) of § 2635.204.

(d) *Other prohibition applicable to full-time, non-career appointees.* In addition to the general prohibitions set forth in paragraph (a) of this section pertaining to gifts from a prohibited source and gifts given because of an employee's official position, a full-time, non-career appointee who is required to sign the Ethics Pledge prescribed by section 1 of Executive Order 13490 shall not accept a gift from a registered lobbyist or lobbying organization, except pursuant to paragraphs (b), (c), (e)(1), (e)(3), (j), (k), or (l) of § 2635.204.

3. Section 2635.203 is amended by adding new paragraphs (h) and (i), as follows:

**§ 2635.203 Definitions.**

\* \* \* \* \*

(h) *Registered lobbyist or lobbying organization* means a person (including an organization) currently registered pursuant to 2 U.S.C. 1603 (Lobbying Disclosure Act) or listed as a lobbyist in such registration, as found in the databases maintained by the Secretary of the Senate and the Clerk of the House of Representatives, but it does not include:

(1) An organization exempt from taxation pursuant to 26 U.S.C. 501(c)(3);

(2) An institution of higher education as defined in 20 U.S.C. 1001;

(3) A media organization as defined in 2 U.S.C. 1602(11), with respect to any gift made in connection with the information gathering or dissemination activities of the organization; or

(4) A nonprofit professional association, scientific organization or learned society, with respect to any gift made in connection with the entity's educational or professional development activities.

**Note to paragraph (h):** The Secretary of the Senate and the Clerk of the House of Representatives maintain searchable, online databases of registrants and lobbyists, pursuant to 2 U.S.C. 1605(a). Employees may rely on the information contained in those databases to determine whether any gift source currently is registered or listed as a lobbyist. For these purposes, a registrant will not be considered to be currently registered if the person has filed a termination of registration. Similarly, a lobbyist will not be considered to be currently listed if the individual has been de-listed by his or her employer as an active lobbyist reflecting the actual cessation of the individual's lobbying activities, or if the individual has not appeared on a quarterly lobbying report for three consecutive quarters as a result of the individual's actual cessation of lobbying activities. With respect to organizations that have subsidiaries, parents or affiliates that are separate legal entities, employees need

only determine the registration status of the entity that offered the gift.

(i) *Full-time, non-career appointee* includes every full-time, non-career Presidential or Vice-Presidential appointee, non-career appointee in the Senior Executive Service (or other SES-type system), and appointee to a position that has been excepted from the competitive service by reason of being of a confidential or policymaking character (Schedule C and other positions excepted under comparable criteria). It does not include a career appointee in the Senior Foreign Service or similar system, nor does it include any person appointed solely as a uniformed service commissioned officer.

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**DEPARTMENT OF ENERGY**

**10 CFR Part 430**

[Docket No. EERE-2011-BT-TP-0007]

RIN 1904-AC44

**Energy Conservation Program for Consumer Products: Test Procedures for Residential Furnaces and Boilers (Standby Mode and Off Mode)**

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

**ACTION:** Notice of proposed rulemaking and announcement of public meeting.

**SUMMARY:** In an earlier final rule, the U.S. Department of Energy (DOE) prescribed amendments to its test procedures for residential furnaces and boilers to include provisions for measuring the standby mode and off mode energy consumption of those products, as required by the Energy Independence and Security Act of 2007. These test procedure amendments are primarily based on provisions incorporated by reference from the International Electrotechnical Commission (IEC) Standard 62301 (First Edition), "Household electrical appliances—Measurement of standby power." This document proposes to further update the DOE test procedure through incorporation by reference of the latest edition of the industry standard, specifically IEC Standard 62301 (Second Edition). The new version of this IEC standard includes a number of methodological changes designed to increase accuracy while reducing testing burden. DOE's review suggests that this document represents an improvement over the prior version,

so DOE has decided to exercise its discretion to consider the revised IEC standard. DOE is also announcing a public meeting to discuss and receive comments on the issues presented in this rulemaking.

**DATES:** *Meeting:* DOE will hold a public meeting on October 3, 2011, from 9 a.m. to 4 p.m., in Washington, DC. The meeting will also be broadcast as a webinar. See section V, "Public Participation," for webinar information, participant instructions, and information about the capabilities available to webinar participants.

*Comments:* DOE will accept comments, data, and information regarding the notice of proposed rulemaking (NOPR) before and after the public meeting, but no later than November 28, 2011. For details, see section V, "Public Participation," of this NOPR.

**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. To attend, please notify Ms. Brenda Edwards at (202) 586-2945. Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. Any foreign national wishing to participate in the meeting should advise DOE as soon as possible by contacting Ms. Brenda Edwards at the phone number above to initiate the necessary procedures.

Any comments submitted must identify the NOPR on Test Procedures for Furnaces and Boilers, and provide the docket number EERE-2011-BT-TP-0007 and/or regulatory information number (RIN) 1904-AC44. Comments may be submitted using any of the following methods:

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

2. *E-mail: FurnaceBoiler-IEC-2011-TP@ee.doe.govmailto:* Include docket number EERE-2011-BT-TP-0007 and RIN 1904-AC44 in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza, SW., Suite 600, Washington, DC 20024. Telephone: (202) 586-2945. If possible, please

submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies will be accepted. For detailed instructions on submitting comments and additional information on the rulemaking process, see section V, "Public Participation," of this document.

**Docket:** The docket is available for review at <http://www.regulations.gov>, including **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the <http://www.regulations.gov> index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

A link to the docket web page can be found at: <http://www.regulations.gov/#!docketDetail;dct=FR%252BPR%252BN%252BO%252BSR%252BPS;rpp=10;p=0;D=EERE-2011-BT-TP-0007>. The <http://www.regulations.gov> web page contains simple instructions on how to access all documents, including public comments, in the docket. See section V, "Public Participation," for further information on how to submit comments through <http://www.regulations.gov>.

For further information on how to submit a public comment, review other public comments and the docket, or participate in the public meeting, please contact Ms. Brenda Edwards at (202) 586-2945 or by e-mail: [Brenda.Edwards@ee.doe.gov](mailto:Brenda.Edwards@ee.doe.gov).

**FOR FURTHER INFORMATION CONTACT:** Mr. Mohammed Khan, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-7892. E-mail: [Mohammed.Khan@ee.doe.gov](mailto:Mohammed.Khan@ee.doe.gov).

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC-71, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 586-9507. E-mail: [Eric.Stas@hq.doe.gov](mailto:Eric.Stas@hq.doe.gov).

For information on how to submit or review public comments, contact Ms. Brenda Edwards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-2945. E-mail: [Brenda.Edwards@ee.doe.gov](mailto:Brenda.Edwards@ee.doe.gov).

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#### I. Background and Authority

Title III, part B<sup>1</sup> of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94-163 (42 U.S.C. 6291-6309, as codified) sets forth a variety of provisions designed to improve energy efficiency and established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, including residential furnaces and boilers (referenced below as one of the "covered products").<sup>2</sup> (42 U.S.C. 6292(a)(5) and 6295(f))

Under the Act, this program consists essentially of three parts: (1) Testing; (2) labeling; and (3) establishing Federal energy conservation standards. The testing requirements consist of test procedures that manufacturers of covered products must use as the basis for certifying to DOE that their products

comply with applicable energy conservation standards adopted pursuant to EPCA and for representing the efficiency of those products. (42 U.S.C. 6293(c); 42 U.S.C. 6295(s)) Similarly, DOE must use these test procedures in any enforcement action to determine whether covered products comply with these energy conservation standards. (42 U.S.C. 6295(s)) Under 42 U.S.C. 6293, EPCA sets forth criteria and procedures for DOE's adoption and amendment of such test procedures. Specifically, EPCA provides that "[a]ny test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use \* \* \* or estimated annual operating cost of a covered product during a representative average use cycle or period of use, as determined by the Secretary [of Energy], and shall not be unduly burdensome to conduct." (42 U.S.C. 6293(b)(3)) In addition, if DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6293(b)(2)) Finally, in any rulemaking to amend a test procedure, DOE must determine "to what extent, if any, the proposed test procedure would alter the measured energy efficiency \* \* \* of any covered product as determined under the existing test procedure." (42 U.S.C. 6293(e)(1)) If DOE determines that the amended test procedure would alter the measured efficiency of a covered product, DOE must amend the applicable energy conservation standard accordingly. (42 U.S.C. 6293(e)(2))

On December 19, 2007, the Energy Independence and Security Act of 2007 (EISA 2007), Public Law 110-140, was enacted. The EISA 2007 amendments to EPCA, in relevant part, require DOE to amend the test procedures for all covered products to include measures of standby mode and off mode energy consumption. Specifically, section 310 of EISA 2007 provides definitions of "standby mode" and "off mode" (42 U.S.C. 6295(gg)(1)(A)) and permits DOE to amend these definitions in the context of a given product (42 U.S.C. 6295(gg)(1)(B)). The statute requires integration of such energy consumption into the overall energy efficiency, energy consumption, or other energy descriptor for each covered product, unless the Secretary determines that: (1) The current test procedures for a covered product already fully account for and incorporate the standby mode and off mode energy consumption of the

<sup>1</sup> For editorial reasons, upon codification in the U.S. Code, part B was redesignated part A.

<sup>2</sup> All references to EPCA in this rulemaking refer to the statute as amended through the Energy Independence and Security Act of 2007, Public Law 110-140.

covered product; or (2) such an integrated test procedure is technically infeasible for a particular covered product, in which case the Secretary shall prescribe a separate standby mode and off mode energy use test procedure for the covered product, if technically feasible. (42 U.S.C. 6295(gg)(2)(A))

Under the statutory provisions adopted by EISA 2007, any such amendment must consider the most current versions of IEC Standard 62301, *Household electrical appliances—Measurement of standby power*, and IEC Standard 62087, *Methods of measurement for the power consumption of audio, video, and related equipment*.<sup>3</sup> *Id.* At the time of enactment of EISA 2007, the most current versions of these standards were IEC Standard 62301 (First Edition 2005–06) and IEC Standard 62087 (Second Edition 2008–09).

DOE's current test procedure for residential furnaces and boilers is found at 10 CFR part 430, subpart B, appendix N, *Uniform Test Method for Measuring the Energy Consumption of Furnaces and Boilers*. This procedure establishes a means for determining annual energy efficiency and annual energy consumption of these products. On October 20, 2010, DOE prescribed its final rule (hereafter called the October 2010 final rule) amending the test procedures for residential furnaces and boilers to account for the standby mode and off mode energy consumption of these products, as required by EISA 2007. 75 FR 64621 (Oct. 20, 2010). For a more detailed procedural history of the test procedure rulemaking to address standby mode and off mode energy consumption of residential furnaces and boilers, please consult the October 2010 final rule. *Id.* at 64622.

## II. Summary of the Proposed Rule

As discussed above, EISA 2007 amended EPCA to require that DOE test procedures for covered products include provisions for measuring standby mode and off mode energy consumption. (42 U.S.C. 6295(gg)(2)(A)) In establishing test procedures to address standby mode and off mode energy consumption, EISA 2007 requires consideration of the most current version of IEC Standard 62301 to support the added measurement provisions. *Id.* In the October 2010 final

rule, DOE amended its test procedures to prescribe the use of IEC Standard 62301, "Household electrical appliances—Measurement of standby power," Publication 62301 First Edition 2005–06, which was the most current version of this standard at the time of its incorporation into the DOE regulations. This final rule fulfilled DOE's obligation under EISA 2007.

However, since that time, DOE has continued to address the requirements of EISA 2007 as it relates to standby mode and off mode for other products. For example, DOE is considering similar test procedure amendments for other heating products (water heaters, direct heating equipment, and pool heaters), and during that rulemaking, commenters identified improvements to IEC Standard 62301 that were under development and nearly finalized. These commenters, which are largely the same as those that would comment on the proposals for furnaces and boilers, supported the draft revisions to IEC Standard 62301. The second edition of the standard has now been finalized. In the abstract of its January 27, 2011 publication, the IEC reports that the second edition would provide practical improvement and possible reduction in testing burden. DOE has reviewed IEC Standard (Second Edition) and agrees that the second edition does provide for improvement in terms of measurement accuracy and, in addition, provides for possible reduced testing burden by allowing for direct meter reading techniques where appropriate. DOE believes these improvements would be applicable to a variety of heating products, including furnaces and boilers, as well as the other heating products discussed above. Accordingly, after careful review, DOE has decided to exercise its discretion to consider adoption of the revised version of the industry standard into the DOE test procedure for residential furnaces and boilers. (42 U.S.C. 6293(b)(2)) Thus, in today's NOPR, DOE is proposing to incorporate into DOE's test procedure regulations the second edition of the IEC 62301 standard in its entirety, and call out the appropriate provisions of that standard in DOE's test procedure regulations for residential furnaces and boilers.

## III. Discussion

### A. Use of IEC Standard 62301 (Second Edition), "Household Electrical Appliances—Measurement of Standby Power"

As noted above, EPCA, as amended by EISA 2007, requires that DOE test procedures be amended to include

standby mode and off mode energy consumption, taking into consideration the most current versions of Standards 62301 and 62087 of the International Electrotechnical Commission. (42 U.S.C. 6295(gg)(2)(A)) The October 2010 final rule referenced the IEC Standard 62301 (First Edition) to obtain the standby mode and off mode measured wattage for residential furnaces and boilers. The amended test procedure uses this measured wattage in calculations to accomplish the incorporation of standby mode and off mode energy consumption into the test procedures. Testimony at the public hearing and subsequent written comments suggested that IEC Standard 62301 (First Edition) may be unnecessarily burdensome to conduct for furnaces and boilers. Specifically, the Air-Conditioning, Heating and Refrigeration Institute (AHRI) recommended that to avoid unnecessary burden, the existing test procedure provisions should be used whenever there is a possible conflict with the IEC Standard 62301. A comment from the Government of China pointed out the same possible conflicts but only asked for clarification. (AHRI, No. 3 at p. 1, and, China, No. 09 at p. 1)

DOE considered the comments received in response to the NOPR and provided clarification in the October 2010 final rule so as to avoid unnecessary burden. Specifically, because there was a possible conflict with the voltage and ambient temperature provisions of the existing procedures, the October 2010 final rule clarified where the IEC provisions apply and where the existing test procedure provisions apply. With this clarification in place, DOE concluded that IEC Standard 62301 (First Edition) is appropriate for obtaining standby mode and off mode wattage measurements for residential furnaces and boilers.

As noted above, since the time of the October 2010 final rule, the IEC Standard 62301 technical committee has revised its standard. Specifically, a second edition of IEC Standard 62301 has been issued by IEC with a final publication date of January 27, 2011. This standard can be purchased at: <http://www.iec.ch/index.htm>. The IEC reports that the second edition provides technical improvement from the previous edition as follows:

- Greater detail in set-up procedures and introduction of stability requirements for all measurement methods to ensure that results are as representative as possible;
- Refinement of measurement uncertainty requirements for power measuring instruments, especially for

<sup>3</sup> EISA 2007 directs DOE to also consider IEC Standard 62087 when amending its test procedures to include standby mode and off mode energy consumption. See 42 U.S.C. 6295(gg)(2)(A). However, IEC Standard 62087 addresses the methods of measuring the power consumption of audio, video, and related equipment. Accordingly, the narrow scope of this particular IEC standard reduces its relevance to today's proposal.

more difficult loads with high crest factor and/or low power factor; and

- Updated guidance on product configuration, instrumentation, and calculation of measurement uncertainty.

DOE has conducted a review of IEC Standard 62301 (Second Edition), which is the most current version of this IEC standard. In its investigation, DOE determined that some improvement to the current DOE test procedure is possible with the incorporation of the second edition of the IEC standard as it applies to residential furnaces and boilers. Specifically, IEC Standard 62301 (Second Edition) revises the standard's power measurement accuracy provisions, based on technical submissions that showed the inability to achieve the accuracy levels required by the first edition for certain operating regimes through the use of typical instrumentation. A more comprehensive specification of required accuracy is provided in IEC Standard 62301 (Second Edition) that depends upon the characteristics of the power being measured. DOE believes that this most recent revision to the IEC standard provides improved and realistic accuracy provisions for a range of electricity consumption patterns, thereby making the updated test method appropriate for the variety of electricity-consuming devices that form part of residential furnaces and boilers. The new specification can be met by typical, commercially-available test equipment, whereas requirements in the first version may have necessitated specialized instrumentation that is not readily available. The uncertainty depends upon a value termed the Maximum Current Ratio (MCR), which is the ratio of the Crest Factor to the Power Factor of the signal. For signals with MCR's less than 10, the allowed instrument uncertainty would be 2 percent at the 95th-percentile confidence interval for measured power values greater than 1.0 watt (W). For measured power values less than 1.0 W, the maximum permitted absolute uncertainty should be less than or equal to 0.02 W at the 95th-percentile confidence interval. Both of these limitations on the level of uncertainty are sufficient to assess the standby energy consumption of residential furnaces and boilers.

The other important change in IEC Standard 62301 (Second Edition) that relates to the measurement of standby mode and off mode power consumption in residential furnaces and boilers involves the specification of the stability criteria required to measure that power. IEC Standard 62301 (Second Edition) contains more detailed techniques to

evaluate the stability of the power consumption and to measure the power consumption for loads with different stability characteristics. In IEC Standard 62301 (First Edition), the stability of the system is determined by measuring the power consumption over a 5-minute period. If the variation over that period is less than 5 percent, the signal is considered to be stable. There are potential operational modes, however, that could show variation over longer time frames. For example, an electronic component could go into a sleep mode after a 10-minute period. This change in power consumption would not be captured in the 5-minute stability test. IEC Standard 62301 (Second Edition) acknowledges the existence of these different types of modes by creating stability tests for these variable power modes. For constant power modes, the test method specified in the second edition of IEC Standard 62301 matches that specified in the first edition. For cyclical power consumption, the second edition of IEC Standard 62301 adds measurement provisions for situations in which the variation in the signal might not be constant over a 5-minute period. The power measurements would take at least 60 minutes; a test period of this duration is required to accurately capture standby mode and off mode energy consumption for equipment with varying power consumption and is an improvement introduced by IEC Standard 62301 (Second Edition) compared to IEC Standard 62301 (First Edition). These techniques will result in more complete and accurate measures of standby mode and off mode energy consumption over a variety of operational modes. The manufacturer is given a choice of measurement procedures, including less burdensome methods such as direct meter reading methods if certain clearly-described stability conditions are met. DOE believes that, if adopted, the changes incorporated in IEC Standard 62301 (Second Edition) would allow for use of less burdensome methods when appropriate and would ensure accurate measures of standby energy consumption over a range of operating conditions that may be present in residential furnaces and boilers.

Accordingly, for the reasons discussed above, DOE is proposing to incorporate IEC Standard 62301 (Second Edition) in its entirety into the overall list of incorporated references in 10 CFR 430.3 and to call out the appropriate provisions of that standard in DOE's test procedure regulations for residential furnaces and boilers. To this end, this notice proposes to add a new reference

in 10 CFR 430.3 to IEC Standard 62301 (Second Edition) along side the existing reference to IEC Standard 62301 (First Edition). (Although DOE has tentatively determined that the provisions of IEC Standard 62301 (Second Edition) should be made applicable to residential furnaces and boilers, the Department is currently maintaining the existing reference to IEC Standard 62301 (First Edition), because other products continue to reference that standard.)

In addition, DOE is proposing a number of editorial changes in appendix N which are necessary to allow for the correct referencing for residential furnaces and boilers. For example, the definition section of the appendix needs to define the IEC Standard 62301 as the second edition instead of the first edition. Also, there are some section numbering differences in the second edition which impact the text of the measurement provisions of DOE's residential furnace and boiler test procedures. Finally, as an editorial improvement, DOE is unifying the standby mode and off mode nomenclature used in its various test procedures. Specifically, DOE's uniform nomenclature would use the expressions  $P_{W,SB}$  and  $P_{W,OFF}$  in all test procedures. All of these proposed changes are reflected in the regulatory text which can be found at the end of this NOPR.

#### *B. Rounding Guidance*

IEC Standard 62301 (Second Edition) includes specific guidance on the allowed rounding for the various wattage measurements. For clarification purposes, DOE is proposing the IEC rounding guidance in this proposal. Specifically, it is proposed that the following sentence be added to the measurement sections 8.6.1 and 8.6.2: "The recorded standby power ( $P_{W,SB}$ ) (or  $P_{W,OFF}$  where appropriate) shall be rounded to the second decimal place, and for loads greater than or equal to 10W, at least three significant figures shall be reported." DOE requests comment as to the adequacy and appropriateness of this additional clarification.

#### *C. Sampling Plans for Standby Mode and Off Mode*

Currently, sampling plans for residential furnaces and boilers are located in 10 CFR 429.18. These provisions of the test procedure specify the number of units of each basic model that a manufacturer must test to calculate the certified ratings for compliance and representation purposes. The sampling procedures

provide that “ \* \* \* a sample of sufficient size shall be randomly selected and tested to ensure [compliance].” *Id.* For residential furnaces, a minimum of two units must be tested to certify a basic model as compliant. This minimum is implicit in the requirement to calculate a mean—an average—which requires at least two values, and is consistent with the general rule articulated under 10 CFR 429.11(b). Under no circumstances is a sample size of one (1) Authorized. Manufacturers may need to test more than two samples depending on the variability of their sample.

Consequently, DOE is proposing to apply the existing DOE sampling plans used by residential furnace and boiler manufacturers to determine the certified ratings for annual fuel utilization efficiency to the standby mode and off mode ratings. DOE seeks comment on the application of the existing DOE sampling plans to the new metrics  $P_{W,SB}$  and  $P_{W,OFF}$ .

#### D. Effective Date and Compliance Date

The effective date for these amendments would be 30 days after publication of the test procedure final rule in the **Federal Register**. At that time, representations may be made using the new metrics  $P_{W,SB}$  and  $P_{W,OFF}$  and any other measure of energy consumption which depends on  $P_{W,SB}$  and  $P_{W,OFF}$ , which were adopted pursuant to these amendments. The compliance date for any representations relating to standby mode and off mode is 180 days from date of publication of the test procedure final rule in the **Federal Register**; on or after that date, any such representations must be based upon results generated under these test procedures and sampling plans.

However, DOE is clarifying here that use of these proposed test procedure amendments related to standby mode and off mode energy consumption of residential furnaces and boilers would not be required for purposes of energy conservation standards compliance, until the compliance date in the recently issued residential furnaces direct final rule (DFR), which adopted energy conservation standards for standby mode and off mode of residential furnaces. 76 FR 37408 (June 27, 2011). However, DOE makes this statement with two caveats: (1) The DFR only addresses standards for furnaces and not boilers, so standby mode and off mode standards for boilers would only be addressed and apply on the compliance date for the next energy conservation standards rulemaking; and (2) the above-referenced compliance date presumes that the DFR will be

finalized at the end of the statutorily-required 110-day comment period.

#### E. Compliance With Other EPCA Requirements

EPCA requires that any test procedures prescribed or amended must be reasonably designed to produce test results which measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use, and it must not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

Today’s proposed amendments to the DOE test procedure for residential furnaces and boilers would incorporate the most current version of IEC Standard 62301 in lieu of the previous version. DOE believes these new provisions would continue to produce valid test results, while reducing testing burden. Accordingly, this proposal would meet the requirements of 42 U.S.C. 6293(b)(3).

In addition, DOE has determined that these amendments would not alter the measured efficiency used for determining compliance with the current energy conservation standards and with future standards for standby mode and off mode for furnaces. (42 U.S.C. 6293(e)(1)) Accordingly, no modifications to the currently applicable energy conservation standards are required. (42 U.S.C. 6293(e)(2)) This is because the currently applicable energy conservation standard is based on the Annual Fuel Utilization Efficiency metric which does not include or depend on the proposed measures of energy consumption regarding standby mode and off mode. In addition, consistent with its mandate pursuant to EISA 2007, DOE is further clarifying here that use of these proposed test procedure amendments related to standby mode and off mode energy consumption, if adopted, would not be required for purposes of energy conservation standards compliance, *until the compliance date of the next standards final rule that addresses standby mode and off mode*. Relating to this emphasized phrase, DOE recently published a Direct Final Rule (DFR) which covered furnaces (but not boilers), and it establishes amended energy efficiency standards for furnaces, as well as standby mode and off mode energy conservation standards. 76 FR 37408 (June 27, 2011). Lastly, DOE does not believe the proposed amendments, which propose to adopt a revised version of the IEC test procedure, would significantly alter the energy consumption as measured by the existing DOE test procedure provisions

related to standby mode and off mode for residential furnaces and boilers, because the test procedure provisions of IEC Standard 62301 (Second Edition) are limited to providing additional accuracy for the measurements and clarification on the test method. Consequently, DOE does not believe that potential adoption of amendments pertaining to these clarifications and additions would alter any estimates of energy consumption under either DOE’s current standards or the recently promulgated standards in the June 27, 2011 direct final rule.

#### IV. Procedural Issues and Regulatory Review

##### A. Review Under Executive Order 12866

Today’s regulatory action is not a “significant regulatory action” under section 3(f) of Executive Order 12866, “Regulatory Planning and Review.” 58 FR 51735 (Oct. 4, 1993). Accordingly, this regulatory action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

##### B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996) requires preparation of an initial regulatory flexibility analysis for any rule that, by law, must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory flexibility analysis examines the impact of the rule on small entities and considers alternative ways of reducing negative effects. Also, as required by Executive Order 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s Web site at <http://www.gc.doe.gov>.

Today’s proposed rule would adopt test procedure provisions to measure standby mode and off mode energy consumption of residential furnaces and boilers, generally through the incorporation by reference of IEC Standard 62301 (Second Edition). DOE reviewed today’s proposed rule under

the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. For the reasons explained below, DOE certifies that the proposed rule would not have a significant impact on a substantial number of small entities.

As noted above, the test procedure incorporates by reference provisions from IEC Standard 62301 for the measurement of standby mode and off mode energy consumption. IEC Standard 62301 is widely accepted and used internationally to measure electric power in standby mode and off mode.

Based on its analysis of IEC Standard 62301 (Second Edition), DOE has tentatively determined that the only possible additional burden represented by the adoption of IEC Standard 62301 (Second Edition) is associated with the testing time. For measurements of power consumption that are determined to be stable, test time would not change. Test time would increase under IEC Standard 62301 (Second Edition), as compared to IEC Standard 62301 (First Edition), should the stability test indicate that the power is being used in a variable manner. For these cases, the revised procedure would increase the time of measurement from the current 15 minutes to up to 60 minutes. No additional setup time would be required for these tests. This possible increase in test time does not necessarily require active labor, because no additional set up is required, and the additional time essentially amounts to a waiting period to determine stability. Nonetheless, assuming the 45 minutes additional test time does incur additional labor cost, the worst-case estimate of an additional \$30 per test unit is a small incremental change compared to the overall financial investment needed to undertake the business enterprise of testing consumer products. For these reasons, DOE does not believe that the proposed standby mode and off mode test procedure provisions would add significant costs and that it would not require any significant investment in test facilities or new equipment.

The Small Business Administration (SBA) considers an entity to be a small business if, together with its affiliates, it employs fewer than a threshold number of workers specified in 13 CFR part 121, which relies on size standards and codes established by the North American Industry Classification System (NAICS). The threshold number for NAICS classification 333415, which applies to Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing (including residential furnaces and boilers), is 750

employees.<sup>4</sup> DOE reviewed the Air-Conditioning, Heating, and Refrigeration Institute's Directory of Certified Product Performance for Residential Furnaces and Boilers (June 7, 2010),<sup>5</sup> the ENERGY STAR Product Databases for Gas and Oil Furnaces (Jan. 4, 2010),<sup>6</sup> the California Energy Commission's Appliance Database for Residential Furnaces and Boilers,<sup>7</sup> and the Consortium for Energy Efficiency's Qualifying Furnace and Boiler List (2010).<sup>8</sup> From this review, DOE found that there are approximately 14 small businesses in the furnace and boiler industry. Even though there are a significant number of small businesses within the furnace and boiler industry, DOE has concluded that the test procedure amendments contained in this proposed rule would not represent a substantial burden to any manufacturer, including small manufacturers, as explained above.

Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE's certification and supporting statement of factual basis will be provided to the Chief Counsel for Advocacy of the SBA for review under 5 U.S.C. 605(b). DOE tentatively certifies that this rule would have no significant economic impact on a substantial number of small entities. DOE seeks comments regarding whether the proposed amendments in today's rule would have a significant economic impact on any small entities.

#### C. Review Under the Paperwork Reduction Act of 1995

Today's proposed rule would impose no new information or recordkeeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

<sup>4</sup> U.S. Small Business Administration, Table of Small Business Size Standards (Nov. 5, 2010) (Available at: [http://www.sba.gov/sites/default/files/Size\\_Standards\\_Table.pdf](http://www.sba.gov/sites/default/files/Size_Standards_Table.pdf)).

<sup>5</sup> The Air-Conditioning, Heating and Refrigeration Institute, Directory of Certified Product Performance (June 7, 2010) (Available at: <http://www.ahridirectory.org/ahridirectory/pages/home.aspx>).

<sup>6</sup> The U.S. Environmental Protection Agency and the U.S. Department of Commerce, ENERGY STAR Furnaces—Product Databases for Gas and Oil Furnaces (Jan. 4, 2010) (Available at: [http://www.energystar.gov/index.cfm?c=furnaces.pr\\_furnaces](http://www.energystar.gov/index.cfm?c=furnaces.pr_furnaces)).

<sup>7</sup> The California Energy Commission, Appliance Database for Residential Furnaces and Boilers (2010) (Available at: <http://www.appliances.energy.ca.gov/QuickSearch.aspx>).

<sup>8</sup> Consortium of Energy Efficiency, Qualifying Furnace and Boiler List (2010) (Available at: <http://www.cee1.org/gas/gs-ht/gs-ht-main.php3>).

#### D. Review Under the National Environmental Policy Act

In this rule, DOE is proposing to further amend the test procedure for residential furnaces and boilers to address measurement of the standby mode and off mode energy consumption of these products. DOE has determined that this proposed rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (Pub. L. 91–190, codified at 42 U.S.C. 4321 *et seq.*), and DOE's implementing regulations at 10 CFR part 1021. Specifically, this proposed rule, which would adopt an industry standard for measurement of standby mode and off mode energy consumption, amends an existing rule without changing its environmental effect, and, therefore, is covered by Categorical Exclusion A5 found in 10 CFR part 1021, subpart D, appendix A. Today's proposed rule, if adopted, would not affect the amount, quality, or distribution of energy usage, and, therefore, would not result in any environmental impacts.<sup>9</sup> Accordingly, neither an environmental assessment nor an environmental impact statement is required.

#### E. Review Under Executive Order 13132

Executive Order 13132, "Federalism," imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. 64 FR 43255 (August 10, 1999). The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States, and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process that it will follow in developing such regulations. 65 FR 13735. DOE has examined this proposed rule and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and

<sup>9</sup> Categorical Exclusion A5 provides: "Rulemaking interpreting or amending an existing rule or regulation that does not change the environmental effect of the rule or regulation being amended."

responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of today's proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) Therefore, Executive Order 13132 requires no further action.

#### F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Regarding the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this rule meets the relevant standards of Executive Order 12988.

#### G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4, codified at 2 U.S.C. 1501 *et seq.*) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. For regulatory actions likely to result in a rule that may cause expenditures by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or

more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a) and (b)) Section 204 of UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed "significant intergovernmental mandate." UMRA also requires an agency plan for giving notice and opportunity for timely input to small governments that may be potentially affected before establishing any requirement that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. (This policy is also available at <http://www.gc.doe.gov>.) Today's proposed rule, which would modify the current test procedures for residential furnaces and boilers, contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure by State, local, and Tribal governments, or by the private sector, of \$100 million or more in any year. Accordingly, no further assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

#### H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105-277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. Today's proposed rule to amend DOE test procedures would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

#### I. Review Under Executive Order 12630

Pursuant to Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," 53 FR 8859 (March 15, 1988), DOE has determined that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the United States Constitution.

#### J. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (Pub. L. 106-554, codified at 44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed today's proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

#### K. Review Under Executive Order 13211

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's proposed rule is not a significant regulatory action under Executive Order 12866 or any successor order; would not have a significant adverse effect on the supply, distribution, or use of energy; and has not been designated by the Administrator of OIRA as a significant energy action. Therefore, DOE has determined that this rule is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects for this rulemaking.

#### L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95-91; 42 U.S.C. 7101 *et seq.*), DOE must

comply with all laws applicable to the former Federal Energy Administration, including section 32 of the Federal Energy Administration Act of 1974 (Pub. L. 93–275), as amended by the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95–70). (15 U.S.C. 788) Section 32 provides that where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Federal Trade Commission (FTC) concerning the impact of commercial or industry standards on competition.

Certain of the amendments and revisions in this proposed rule would incorporate testing methods contained in the following commercial standard, the International Electrotechnical Commission (IEC) Standard 62301, “Household electrical appliances—Measurement of standby power” (Second Edition 2011). DOE has evaluated this standard and is unable to conclude whether it fully complies with the requirements of section 32(b) of the Federal Energy Administration Act (*i.e.*, that it was developed in a manner that fully provides for public participation, comment, and review). DOE will consult with the Attorney General and the Chairman of the FTC concerning the impact on competition of requiring manufacturers to use the test methods contained in this standard before prescribing a final rule.

## V. Public Participation

### A. Attendance at the Public Meeting

The time, date, and location of the public meeting are listed in the **DATES** and **ADDRESSES** sections at the beginning of this NOPR. To attend the public meeting, please notify Ms. Brenda Edwards at (202) 586–2945. As explained in the **ADDRESSES** section, foreign nationals visiting DOE Headquarters are subject to advance security screening procedures.

### B. Procedure for Submitting Requests to Speak

Any person who has an interest in the topics addressed in this notice, or who is a representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the public meeting. Such persons may hand-deliver requests to speak to the address shown in the **ADDRESSES** section at the beginning of this notice between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Requests may

also be sent by mail or email to Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121, or [Brenda.Edwards@ee.doe.gov](mailto:Brenda.Edwards@ee.doe.gov). Persons who wish to speak should include with their request a computer diskette or CD–ROM in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this rulemaking and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

DOE requests persons selected to make an oral presentation to submit an advance copy of their statements at least one week before the public meeting. DOE may permit persons who cannot supply an advance copy of their statement to participate, if those persons have made advance alternative arrangements with the Building Technologies Program. As necessary, requests to give an oral presentation should ask for such alternative arrangements.

### C. Conduct of the Public Meeting

DOE will designate a DOE official to preside at the public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. A court reporter will be present to record the proceedings and prepare a transcript.

The public meeting will be conducted in an informal, conference style. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. DOE will present summaries of comments received before the public meeting, allow time for presentations by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a prepared general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit other participants to comment briefly on any general statements. At the end of all prepared statements on each specific topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others.

Participants should be prepared to answer DOE’s and other participants’ questions. DOE representatives may also ask participants about other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of these procedures that may be needed for the proper conduct of the public meeting. After the public meeting, interested parties may submit further comments on the proceedings as well as on any aspect of the rulemaking until the end of the comment period.

DOE will make the entire record of this proposed rulemaking, including the transcript from the public meeting, available for inspection at the U.S. Department of Energy, 6th Floor, 950 L’Enfant Plaza SW., Washington, DC 20024, (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Copies of the transcript will be posted on the DOE Web site and will also be available for purchase from the transcribing reporter.

### D. Submission of Comments

DOE will accept comments, data, and information regarding the proposed rule before or after the public meeting, but no later than the date provided at the beginning of this notice. Comments, data, and information submitted to DOE’s e-mail address for this rulemaking should be provided in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format. Stakeholders should avoid the use of special characters or any form of encryption, and wherever possible, comments should include the electronic signature of the author. Comments, data, and information submitted to DOE via mail or hand delivery/courier should include one signed paper original. No telefacsimiles (faxes) will be accepted.

Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: one copy of the document that includes all of the information believed to be confidential, and one copy of the document with that information deleted. DOE will make its own determination as to the confidential status of the information and treat it accordingly.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is



generally known by or available from other sources; (4) whether the information was previously made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person that would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

#### E. Issues on Which DOE Seeks Comment

Although comments are welcome on all aspects of this rulemaking, DOE is particularly interested in receiving comments and views of interested parties on the following issues:

1. *Appropriateness of measurement instrument uncertainty requirements of IEC Standard 62301 (Second Edition).* DOE invites comment on the appropriateness of the measurement instrument uncertainty requirements specified in Section 4.4 of IEC Standard 62301 (Second Edition) to measure standby mode and off mode power consumption for residential furnaces and boilers.

2. *Adequacy of the measurement approach described in IEC Standard 62301 (Second Edition).* DOE invites comments on the adequacy of the measurement provisions described in Section 5 of IEC Standard 62301 (Second Edition) to measure standby mode and off mode power consumption for residential furnaces and boilers.

3. *Adequacy of clarification statements.* DOE invites comments on the adequacy of incorporating into DOE regulations the following specific provisions from IEC Standard 62301 (Second Edition): Section 4.4 and section 5 of IEC 62301 with the clarification statements in Section 8 of the DOE test procedures.

4. *Adequacy of rounding guidance.* DOE invites comment on the incorporation of the IEC Standard 62301 (Second Edition) rounding guidance into the DOE test procedures' proposed measurements of  $P_{W,SB}$  and  $P_{W,OFF}$ .

5. *Adequacy of existing sampling plans.* DOE invites comment on the application of the existing DOE sampling plans to standby mode and off mode measures of energy consumption, in particular by the newly proposed metrics  $P_{W,SB}$  and  $P_{W,OFF}$ .

#### VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking.

#### List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on August 30, 2011.

**Kathleen B. Hogan,**

*Deputy Assistant Secretary for Energy Efficiency, Office of Technology Development, Energy Efficiency and Renewable Energy.*

For the reasons stated in the preamble, DOE proposes to amend part 430 of Chapter II, Subchapter D of Title 10 of the Code of Federal Regulations, to read as set forth below:

#### PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. The authority citation for part 430 continues to read as follows:

**Authority:** 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

2. Section 430.3 is amended by:

a. Removing, in paragraph (l)(1), the words “Appendix N”;

b. Adding a new paragraph (1)(2) to read as follows:

##### § 430.3 Materials incorporated by reference.

*	*	*	*	*
(1)	*	*	*	*
*	*	*	*	*

(2) International Electrotechnical Commission (IEC) Standard 62301 (“IEC 62301”), *Household electrical appliances—Measurement of standby power* (second edition, February 2011), IBR approved for Appendix G, N, O, and P to Subpart B.

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##### Appendix N [Amended]

3. Appendix N to subpart B of part 430 is amended:

a. In the second sentence of the introductory note by removing “April 18, 2011” and adding in its place “(date 180 days after publication of the test procedure final rule)”;

b. In section 2.4., by removing the phrase “(First Edition 2005–06)” and adding in its place “(Second Edition 2011)”;

c. In section 8.6.1, by removing after the first sentence the parenthetical expression “( $P_{SB}$ )” and adding in its place the parenthetical expression “( $P_{W,SB}$ )” and by removing in the third sentence, the phrase “4.5 Power measurement accuracy” and adding in

its place, the phrase “4.4 Power measurement instruments” and by adding a sentence at the end of the section which reads: “The recorded standby power ( $P_{W,SB}$ ) shall be rounded to the second decimal place, and for loads greater than or equal to 10W, at least three significant figures shall be reported.”;

d. In section 8.6.2., by removing after the first sentence the parenthetical expression “( $P_{OFF}$ )” and adding in its place the parenthetical expression “( $P_{W,OFF}$ )”, by removing in the third sentence, the phrase “4.5 Power measurement accuracy” and adding in its place the phrase “4.4 Power measurement instruments”, and by removing in the last sentence the equation “ $P_{OFF} = P_{SB}$ ” and adding in its place the equation “ $P_{W,OFF} = P_{W,SB}$ ”, and by adding a sentence at the end of the section which reads: “The recorded off mode power ( $P_{W,OFF}$ ) shall be rounded to the second decimal place, and for loads greater than or equal to 10W, at least three significant figures shall be reported.”;

e. In section 9.0., by removing the expression “ $P_{OFF}$ ” and adding in its place “ $P_{W,OFF}$ ”, and by removing the expression “ $P_{SB}$ ” and adding in its place “ $P_{W,SB}$ ”, and;

f. In section 10.9., by replacing in both the equation and defined values the expressions “ $P_{SB}$ ” and “ $P_{OFF}$ ” with “ $P_{W,SB}$ ” and  $P_{W,OFF}$ ” respectively.

[FR Doc. 2011–23286 Filed 9–12–11; 8:45 am]

BILLING CODE 6450–01–P

#### DEPARTMENT OF ENERGY

##### 10 CFR Part 430

[Docket No. EERE–2009–BT–TP–0013]

RIN 1904–AB95

#### Energy Conservation Program for Consumer Products: Test Procedures for Residential Water Heaters, Direct Heating Equipment, and Pool Heaters (Standby Mode and Off Mode)

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

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

**SUMMARY:** On August 30, 2010, the U.S. Department of Energy (DOE) published a notice of proposed rulemaking (NOPR) in which DOE proposed to amend, where appropriate, its test procedures for residential water heaters, direct heating equipment, and pool heaters to include provisions for measuring standby mode and off mode energy