without introducing any incremental burdens or erecting barriers that would restrict the ability of small entities to compete in the market. This conclusion is supported by the historic growth of the organic industry without the regulatory amendments. The demand for organic food has continued to grow over the past ten years under the current regulatory regime.

This proposed rule would relieve producers of the costs of complying with the Organic Livestock and Poultry Practices final rule. The effects would be beneficial, but not significant. A small number of entities may experience time and money savings as a result of not having to change practices to comply with the OLPP final rule. Affected small entities would include organic egg and organic broiler producers. The proposed rule would not have a significant economic impact on a substantial number of small entities.

Under these circumstances, the Administrator of the Agricultural Marketing Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

VII. Executive Order 12988

Executive Order 12988 instructs each executive agency to adhere to certain requirements in the development of new and revised regulations to avoid unduly burdening the court system.

Pursuant to section 6519(f) of OFPA, if finalized, this rule would not alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601–624), the Poultry Products Inspection Act (21 U.S.C. 451–471), or the Egg Products Inspection Act (21 U.S.C. 1031–1056), concerning meat, poultry, and egg products, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301–399) or the Public Health Service Act (42 U.S.C. 201–300), nor the authority of the Administrator of the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136–136(y)).

VIII. Paperwork Reduction Act

No additional collection or recordkeeping requirements would be imposed on the public by withdrawing the OLPP final rule. Accordingly, OMB clearance is not required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501), Chapter 35. Withdrawing the OLPP final rule will avoid an estimated $1.95–$3.9 million in costs for increased paperwork burden associated with that final rule.

IX. Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

AMS has assessed the impact of this rule on Indian tribes and determined that this rule would not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a Tribe requests consultation, AMS will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified herein are not expressly mandated by Congress.

X. Civil Rights Impact Analysis

AMS has reviewed this draft rule in accordance with the Department Regulation 4300–4, Civil Rights Impact Analysis, to address any major civil rights impacts the rule might have on minorities, women, and persons with disabilities. AMS has determined that withdrawing the OLPP final rule would not affect producers in protected groups differently than the general population of producers.

XI. Conclusion

In compliance with USDA's interpretation of the OFPA and consistent with USDA regulatory policy, AMS is proposing to withdraw the OLPP final rule.

Dated: December 14, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–27316 Filed 12–15–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

10 CFR Part 430

Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards for Consumer Products

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

ACTION: Request for information and notification of public meeting.

SUMMARY: As part of its implementation of, ''Reducing Regulation and Controlling Regulatory Costs,'' (January 30, 2017) and, ''Enforcing the Regulatory Reform Agenda,'' (Feb. 24, 2017), the Department of Energy (DOE) is seeking comments and information from interested parties to assist DOE in identifying potential modifications to its ''Process Rule'' for the development of appliance standards to achieve meaningful burden reduction while continuing to achieve the Department's statutory obligations in the development of appliance standards. DOE will also hold a public meeting to receive input from interested parties on potential improvements to the ''Process Rule''. This RFI is the first in a series of steps DOE is taking to consider modifications to the ''Process Rule.'' Subsequently, DOE expects to expeditiously publish an ANPRM that will provide feedback on the public comment received in response to this notice and seek additional information on potential improvements to our process for developing and promulgating energy efficiency standards.

DATES: Written comments and information are requested on or before February 16, 2018. A public meeting will be held on January 9, 2018.

ADDRESSES: The public meeting will begin at 9:30 a.m., at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW, Washington, DC 20585.

Interested persons are encouraged to submit comments, identified by ''Process Rule RFI,'' by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: Regulatory.Review@hq.doe.gov.* Include ''Process Rule RFI'' in the subject line of the message.
- *Mail:* U.S. Department of Energy, Office of the General Counsel, 1000 Independence Avenue SW, Room 6A245, Washington, DC 20585.

Docket: For access to the docket to read background documents, or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Caitlin Davis, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW, Washington, DC 20585. Email: *Regulatory.Review@hq.doe.gov,* Phone: 202–586–6803.

SUPPLEMENTARY INFORMATION: On January 30, 2017, the President issued Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs.'' That Order stated the policy of the executive branch is to be prudent and financially responsible in the expenditure of funds, from both public and private sources. The Order stated that it is essential to manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations. Additionally, on February 24, 2017, the President issued Executive Order 13777, ''Enforcing the Regulatory Reform Agenda.'' The Order required the head of each agency to designate an agency official as its Regulatory Reform Officer (RRO). Each RRO is tasked with overseeing the implementation of regulatory reform initiatives and policies to ensure that agencies effectively carry out regulatory reforms, consistent with applicable law. Further, E.O. 13777 requires the establishment of a regulatory task force at each agency. The regulatory task force is required to make recommendations to the agency head regarding the repeal, replacement, or modification of existing regulations, consistent with applicable law.

To implement these Executive Orders, the Department, among other actions, issued a Request for Information (RFI) seeking public comment on how best to achieve meaningful burden reduction while continuing to achieve the Department's regulatory objectives. 82 FR 24582 (May, 30, 2017). In response to this RFI, the Department received a number of comments pertaining to DOE's Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards for Consumer Products, codified at 10 CFR part 430, subpart C, appendix A. Although DOE has declined to follow them in a number of cases in the recent past, DOE generally uses the procedures set forth in the Process Rule to prescribe energy conservation standards for both consumer products and commercial equipment pursuant to the Energy Policy and Conservation Act of 1975 (Pub. L. 94–163, 42 U.S.C. 6291, *et seq.* ''EPCA'') (EPCA). These procedures are commonly referred to as the ''Process Rule''. DOE's objectives in establishing these procedures include: (1) Providing for early input from stakeholders; (2) increasing predictability of the rulemaking timetable; (3) increasing the use of outside technical expertise; (4) eliminating problematic design options early in the process; (5) fully consider non-regulatory approaches; (6) conducting a thorough analysis of impacts; (7) using transparent and robust analytical methods; (8) articulating policies to guide selection of standards; and (9) supporting efforts to build consensus on standards.

In this RFI, and through the public meeting announced in the **DATES** section, DOE seeks additional comments and information on potential improvements to the Process Rule. DOE welcomes comment on all aspects of the Process Rule that interested parties believe could be improved, including specific changes to the existing text of appendix A to subpart C of part 430 or other suggestions on how to accomplish the suggested improvements. In the paragraphs that follow, DOE also provides a list of several issue areas on which it is particularly interested in receiving comments. DOE developed these issue areas based on feedback received in response to previous regulatory reform efforts related to the Process Rule. These efforts include DOE's recent regulatory reform RFI. DOE also developed issue areas based on changes in the law since the original promulgation of the Process Rule, and on DOE's experience in promulgating standards using the procedures set out in the rule. The issues discussed in this notice are not a comprehensive list of the areas in which DOE is considering reforms. DOE intends to provide additional opportunities for public feedback as DOE moves forward to expeditiously effectuate improvements to the Process Rule. DOE may also consider various process and methodological improvements separate from those specific procedures described in this document.

Issue Areas

A. Direct Final Rules

The Energy Independence and Security Act of 2007 (EISA) (Pub. L. 110–140) amended EPCA, in relevant part, to grant DOE authority to issue a ''direct final rule'' (DFR) to establish energy conservation standards. (Direct final rule is a term used generically to describe a type of rulemaking proceeding.) As amended, EPCA establishes the requirements for DOE to use this type of rulemaking proceeding for the issuance of certain actions. Specifically, DOE may issue a DFR adopting energy conservation standards for a covered product upon receipt of a joint proposal from a group of ''interested persons that are fairly representative of relevant points of view,'' provided DOE determines the energy conservation standards recommended in the joint proposal conform with the requirements of 42 U.S.C. 6295(o). (42 U.S.C. 6295(p)(4)(A)) Simultaneous with the issuance of a DFR, DOE must also issue a notice of proposed rulemaking (NOPR) containing the same energy conservation standards in the DFR. Following publication of the DFR, DOE must solicit public comment for a period of at least 110 days; then, not later than 120 days after issuance of the DFR, the Secretary must determine whether any adverse comments ''may provide a reasonable basis for withdrawing the DFR,'' based on the rulemaking record and specified statutory provisions. (42 U.S.C. 6295(p)(4)(B), (C)(i)) Upon withdrawal, the Secretary must proceed with the rulemaking process under the NOPR that was issued simultaneously with the DFR and publish the reasons the DFR was withdrawn. (42 U.S.C. 6295(C)(ii)) If the Secretary determines not to withdraw the DFR, it becomes effective as specified in the original issuance of the DFR.

In response to a 2011 DFR in which DOE established energy conservation standards for residential furnaces, central air conditioners, and heat pumps, the American Public Gas Association filed a petition for review in the DC Circuit on December 23, 2011, challenging the validity of the rule. Various environmental and commercial interest groups joined each side of the case, reflecting various viewpoints. On March 11, 2014, all parties filed a joint motion presenting final terms of settlement in the case (''Joint Motion'').

Pursuant to the Joint Motion, DOE published an RFI on October 31, 2014 (''October RFI'') seeking public input on several aspects of the DFR process. 79 FR 64705. In the October RFI, DOE explained that it was conducting a notice-and-comment proceeding to clarify its interpretation and implementation of certain aspects of the DFR process and requested comment on three issues: (1) When a joint statement with recommendations related to an energy or water conservation standard would be deemed to have been submitted by ''interested persons that are fairly representative of relevant points of view,'' thereby permitting use

of the DFR mechanism; (2) the nature and extent of ''adverse comments'' that may provide the Secretary a reasonable basis for withdrawing the DFR, leading to further rulemaking under the accompanying NOPR; and (3) what constitutes the ''recommended standard contained in the statement,'' and the scope of any resulting DFR. *Id.* at 64706.

With respect to (2) concerning the consideration of adverse comments, DOE created a balancing test as part of a 2011 DFR. 76 FR 37408, 37422 (June 27, 2011). DOE has used this test consistently for DFRs it has issued to date. In the balancing test, DOE considers the substance of all adverse comments received (rather than quantity) and weighs them against the anticipated benefits of the Consensus Agreement and the likelihood that further consideration of the comments would change the results of the rulemaking. As a result of this latter consideration, DOE does not consider adverse comments that had been previously raised and addressed at an earlier stage in the rulemaking proceeding. DOE developed this balancing test approach to managing adverse comments to assist the Secretary in determining whether the comments provide a reasonable basis for withdrawing the DFR.

Request for comment: DOE seeks comment on whether to amend the process rule to include provisions related to the use of DFRs. The development of DFRs by a representative group of regulated entities and other stakeholders can achieve a number of the objectives set out in the Process Rule, such as providing for early input from stakeholders and supporting efforts to build consensus on standards. DOE seeks comment on the balancing test and what constitutes a change in results of the standards or supporting analysis that the agency should consider when determining whether the comments provide a reasonable basis for withdrawing the DFR. To assist DOE in the development of any appropriate revisions, DOE also seeks further comment on the three issues outlined above from the October 2014 RFI. DOE also seeks comment on what it means for a statement to be submitted by interested persons that are ''fairly representative of relevant points of view.'' DOE seeks comment on what constitutes a relevant point of view and whether DOE should ensure that *all* relevant points of view have been taken into account before using the EPCA authority in 42 U.S.C. 6295(p)(4) to issue a DFR. More generally, DOE seeks comments on the strengths and weaknesses of using the DFR process to promulgate energy conservation standards.

B. Negotiated Rulemaking

Negotiated rulemaking is a process by which an agency attempts to develop a consensus proposal for regulation in consultation with all interested parties and before issuing a proposed rule.[1] The process allows an agency to address salient comments from interested parties prior to issuing a proposed rule. Consequently, negotiated rulemaking can yield better and more thoroughly vetted outcomes and may in some circumstances decrease the likelihood of costly litigation. DOE uses negotiated rulemakings as a means to engage the public, gather data and information, and attempt to reach consensus among interested parties to advance the rulemaking process.

In pursuit of the Department's goal of promoting negotiated rulemakings in appropriate cases, DOE established the Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC) to comply with the Federal Advisory Committee Act (FACA), Public Law No. 92–463 (1972) (codified at 5 U.S.C. App. 2). Generally speaking, FACA regulates the formation and operation of advisory committees by Federal agencies. The Department meets all of the FACA requirements for new advisory committees including public notice and a determination that the establishment will be in the public interest, a clearly defined purpose,[2] membership that is fairly balanced in terms of points of view represented and the functions to be performed, and meetings that are open to public observation, subject to the exceptions as provided in the Government in the Sunshine Act (5 U.S.C. 552(b)).

As part of the DOE process, working groups have been established for specific products and one member from the ASRAC committee attends the meetings of a specific working group. Ultimately, the working group reports to ASRAC, and ASRAC itself votes on whether to adopt a consensus agreement. In each negotiated rulemaking proceeding, DOE includes a process whereby the working group discusses and votes on how to define consensus. The Negotiated Rulemaking Act (NRA) defines consensus for a negotiated proceeding as being unanimity unless the negotiating group unanimously agrees to a different definition. In the cases where the group unanimously agrees to a different definition other than unanimous consensus, the selection of members to the working group becomes even more important. DOE's role in the negotiated rulemaking process is to provide technical advice to the parties and provide legal input where needed. DOE also has a vote in the consensus process among all of the parties of ASRAC.

In DOE's experience with using negotiated rulemaking, DOE has found that the process allows real-time adjustments to the analyses as the working group is considering them, and it allows disparate parties to negotiate face-to-face regarding the terms of a potential standard. Negotiated rulemakings encourage manufacturers in a more direct manner to provide data to assist with the analysis which can help to better account for manufacturer concerns. It is important that agencies encourage full public participation in the process to ensure that the interests of parties who would be significantly affected by the rule are represented in the negotiations leading up to the proposed rule issued for public comment. In particular, the Negotiated Rulemaking Act (NRA) requires agencies to determine, in determining whether to proceed with a negotiated rulemaking, that a negotiated rulemaking committee can adequately represent the interests that will be significantly affected by a proposed action. 5 U.S.C. 565(a). The NRA further provides for agencies to use ''convenors'' to assist in identifying persons who would be significantly affected by a proposed rule, identifying issues of concern to these persons, and ascertaining whether establishment of a negotiated rulemaking committee is feasible and appropriate for a particular rulemaking. 5 U.S.C. 563(b). Facilitators can also be used to, as described in the NRA, chair meetings and assist members of the committee in conducting discussions. The facilitator, who cannot be a person designated to represent the agency on substantive issues, is to accomplish both of these tasks in an impartial manner. 5 U.S.C. 566(c). DOE has in the past used convenors and facilitators for some of its negotiated rulemakings and found that these individuals can assist DOE in

[1] This process is conducted in accordance with the requirements of the Negotiated Rulemaking Act (NRA), Public Law 104–320 (5 U.S.C. 561–570).

[2] ASRAC was created as a discretionary advisory committee to provide advice and recommendations related to: (1) The development of minimum efficiency standards for appliances and equipment, (2) the development of product test procedures; (3) the certification and enforcement of standards; (4) the labeling for various appliances and equipment; (5) specific issues of concern to DOE as requested by the Secretary of Energy, the Assistant Secretary for Energy Efficiency and Renewable Energy, and DOE's Building Technologies Office.

ensuring that relevant points of view are represented in the development of any particular rulemaking.

Request for comment: DOE seeks comment on whether to amend the Process Rule to include the use of negotiated rulemaking in appropriate cases. The use of negotiated rulemaking can also achieve many of the objectives of the Process Rule, such as providing for early input from stakeholders; increasing the use of outside technical expertise and eliminating problematic design options early in the process, while exploring reasonable alternatives for consideration, when manufacturers and other interested parties can offer and debate expertise, data and information in real time as the rule is developed; conducting a thorough analysis of impacts for all alternatives that may affect different stakeholders differently and using transparent and robust analytical methods, for the same reasons; and supporting efforts to build consensus on standards when appropriate. DOE seeks comment on any and all issues related to the use of negotiated rulemaking in the development of energy conservation standards, including how DOE can improve its current use of the process as envisioned by the NRA. DOE acknowledges the concern that relevant parties or points of view must be represented during the negotiations to ensure the most appropriate outcome and associated burden and distribution of costs. In particular, DOE seeks comment on whether the Process Rule should be amended to provide for the use of a convenor or facilitator for each negotiated rulemaking. DOE also requests comment on amendments to the Process Rule that would ensure that all reasonable alternatives are explored in that process, including the option of not amending or issuing a standard and alternatives that will affect different stakeholders differently. DOE also requests comment on the use of the DFR mechanism at the conclusion of a negotiated rulemaking. (DFRs are discussed in Section A.)

C. Elimination of the Statutory Requirement for an Advance Notice of Proposed Rulemaking; Inclusion of Alternate Means To Gather Additional Information Early in the Process

Throughout the Process Rule, there are many provisions that reference an Advance Notice of Proposed Rulemaking (ANOPR) as a step in the pre-NOPR process. Congress, however, eliminated the statutory requirement that DOE publish an ANOPR in rulemakings to establish or amend energy conservation standards when it enacted EISA.

DOE emphasizes that it highly values public input early in the rulemaking process. Such early input assists DOE in determining whether new or amended standards are necessary, determining the scope of a particular rulemaking, gaining an understanding of the current market and current technologies, and identifying potential issues with DOE's analyses. So, even though DOE no longer has an obligation to issue an ANOPR, DOE may continue to use the ANOPR and other alternative mechanisms to receive early input and supplemental information from stakeholders. Regarding alternative mechanisms to receive early input, DOE routinely provides early opportunities for public input through Framework and Preliminary Analysis documents, Notices of Data Availability, and RFIs. DOE welcomes as much participation from as many stakeholders as possible in the pre-NOPR stage of its rulemakings to raise issues, provide data, and critique DOE's technical analyses, when stakeholders determine that the need exists.

In November 2010, DOE announced certain changes on its website intended to improve its rulemaking process in appropriate circumstances. (See *https://energy.gov/gc/articles/doe-announces-changes-energy-conservation-standards-process.*) One of these potential changes was to, in appropriate circumstances, eliminate these preliminary steps in favor of issuing a proposed rule for public comment as the first phase of the rulemaking process. The 2010 announcement provided some examples where DOE might issue a NOPR directly including: (1) Instances where the economic and technological data are well known and understood; (2) instances where the industry has experienced little change since the last rulemaking; and (3) instances where the product being regulated has a long history of rulemaking so it is anticipated that there is little new data to collect. Another example could be where DOE determined that there was a time-sensitivity in issuing the rulemaking.

DOE received comments in response to its regulatory reform RFI that DOE should not eliminate these early steps, and that the circumstances enumerated by DOE where it may be appropriate to directly issue a NOPR are, instead, indicators that insufficient time has elapsed since the promulgation of a prior standard to begin work on a new standard. In such cases, the impacts of the previous standard have not yet had sufficient time to materialize so that DOE could analyze them in determining whether to issue a new standard. These commenters cautioned that DOE should not rush to issue a proposed rule, but should instead allow more time to elapse so that the impacts of the previous standard can be properly evaluated in the pre-rule documents DOE typically issues at the start of the rulemaking process. DOE also received comment suggesting that DOE amend the Process Rule to require retrospective review of current standards prior to beginning work on a new standard, to determine if the prior standard has achieved the anticipated energy savings and costs. Commenters also suggested that DOE provide advanced notice of planned data collection activities to allow parties to contribute.

Request for comment: DOE seeks comment on whether the Process Rule should be revised to eliminate references to mandatory use of an ANOPR prior to issuing a proposed rule, but maintain the ANOPR and/or include any of the alternative pre-rule steps discussed above. The alternative pre-rule steps could provide an alternate means of achieving Process Rule objectives including the provision of early input from stakeholders; increasing predictability of the rulemaking timetable because regulated entities could count on these steps being taken; and eliminating problematic design options early in the process, conducting a thorough analysis of impacts, and using transparent and robust analytical methods, because regulated entities and other stakeholders would have more opportunity early in the process to analyze and question DOE's data and analytical methods. DOE could also modify the process rule to incorporate greater use of these additional data gathering tools without eliminating the ANOPR provisions. Additionally, DOE requests comment on whether, and if so how, DOE should perform a retrospective review of current standards and associated costs and benefits as part of any pre-rule process.

D. Application of the Process Rule to Commercial Equipment

When it was originally promulgated in 1975, EPCA established a Federal program consisting of test procedures, labeling, and energy conservation standards for covered consumer products. Subsequent amendments to EPCA included provisions for the establishment of energy conservation standards for certain types of commercial equipment. For example, the Energy Policy Act of 1992 (EPACT 1992) expanded the coverage of the standards program to include certain

commercial and industrial equipment, including commercial heating and air-conditioning equipment, water heaters, certain incandescent and fluorescent lamps, and electric motors. (Energy Policy Act of 1992, Pub. L. 102–486 (1992)) EPACT 1992 also called for, among other things, determination analyses for small electric motors, high-intensity discharge lamps, and distribution transformers.

By its terms (and specifically by its title), the Process Rule is applicable only to consumer products. DOE has routinely followed the procedures set forth in the rule when establishing standards for commercial equipment, however, as there is no evident reason why DOE would want to use different procedures when establishing standards for such equipment.

Request for comment: Should DOE amend the Process Rule to clarify that it is equally applicable to the consideration of standards for commercial equipment and to recognize DOE's current practice in applying the requirements of the process rule to commercial equipment? What would be the advantages and disadvantages of applying the Process Rule criteria to commercial equipment? Such a revision would help to ensure that Process Rule objectives are also achieved in the consideration of whether to develop or amend standards for commercial equipment.

E. Use of Industry Standards in DOE Test Procedures

In the development of DOE test procedures, DOE routinely considers the test methods established in industry standards and often adopts such standards as the DOE test method but has chosen in the past to alter these standards for a variety of products and equipment. DOE has asserted a number of reasons for the modifications, such as to increase repeatability and reproducibility of the test method or because an industry test method provides, in DOE's view, incomplete information required for testing.

DOE received comments in response to its regulatory reform RFI on the use of industry standards in DOE test procedures. Specifically, commenters requested that DOE consider using the industry standards, without modification, as the DOE test procedure. This approach could lead to process efficiencies and ease the test burden on manufacturers. DOE has also requested comment on this approach in recent RFIs for test procedures specific to a given product, such as small electric motors (82 FR 35468, July 31, 2017) and General Service Fluorescent Lamps, General Service Incandescent Lamps, Incandescent Reflector Lamps (82 FR 37031; Aug. 8, 2017).

Request for comment: DOE seeks comment on whether to modify the Process Rule to specify under what circumstances DOE would consider using the industry standard, without modification, as the DOE test procedure for a given product or equipment type. For example, DOE could consider adopting the industry standard whenever the industry test method meets the EPCA requirements of being reasonably designed to produce test results that measure energy efficiency, energy use, water 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, and of being not unduly burdensome to conduct, and whenever any benefits to using modified test methods are outweighed by the increased burden on manufacturers resulting from potential changes to the industry test method. Such a revision could achieve the Process Rule objective of increasing the use of outside technical expertise because DOE would focus primarily on the standard developed by industry, and any changes to that standard would occur only where the benefits outweighed the burdens on manufacturers.

F. Timing of the Issuance of DOE Test Procedures; Certification, Compliance and Enforcement; and Standards Rulemakings

In response to DOE's regulatory reform RFI, commenters emphasized that DOE should follow the Process Rule, in particular with regard to the timing of the issuance of final test procedures and the commencement of a standards rulemaking. The Process Rule provides that final, modified test procedures will be issued prior to the notice of proposed rulemaking (NOPR) on proposed standards. However, DOE has argued in some rulemakings that it was unable to meet this requirement because, for example, DOE has not had the resources to produce test procedures on a schedule to meet the Process Rule schedule requirement. In other instances, DOE has stated that it lacked the technical information and data it needs to complete a given test procedure on this timeline. There have also been some instances where a test procedure has been finalized, but new data emerge during the standards rulemaking showing the finalized test procedure to be insufficient. Commenters on DOE's regulatory reform RFI argue, however, that these reasons counsel that DOE should, instead of rushing to complete a standards rulemaking, take the time and resources needed to gather the necessary technical information and develop the appropriate test procedure prior to commencing the standards rulemaking. Commenters have also asserted that it is necessary to finalize the test procedure before beginning work on a standards rulemaking to ensure that the effects of the test procedure on compliance with the standard can be analyzed, and to ensure that commenters can provide effective comments on both proposed test procedures and standards rules.

Request for comment: DOE seeks comment on whether the provisions of the Process Rule regarding the issuance of a final test procedure rule before issuing a proposed standards rule should be amended to further ensure that the Department follows this process in developing test procedures and standards. For example, provisions could be added regarding DOE's development of a schedule for considering whether to amend a particular standard, and that schedule could include consideration of any test procedure changes that would result in the finalization of any changes prior to issuance of the proposed standards rule. Such a revision could achieve the Process Rule objectives of providing for early input from stakeholders, because stakeholder input on the test procedure would be fully developed prior to issuance of any proposed standard. The objective of increasing predictability of the rulemaking timetable could also be achieved through such a revision.

DOE also issues certification, compliance, and enforcement regulations for all product categories. These rules are issued to ensure consistency in certifying that the residential, commercial and industrial equipment meet DOE's energy conservation standards and that they deliver the expected energy and cost savings. DOE has in the past issued the certification, compliance, and enforcement rulemakings for groups of product categories in one rulemaking as opposed to individual product categories in separate rulemakings. These rules establish the frequency of reporting of certification data to DOE as well as verifying the testing method, testing data, sample size, etc.

Request for comment: DOE seeks comment on whether any new or amended certification, compliance, and enforcement rulemaking should be proposed and finalized at the same time as the energy efficiency standards so that the agency can consider the full compliance costs when choosing the

energy efficiency standard levels. DOE also seeks comment on how it could incorporate any potential cost or benefit impacts of the test procedure requirements in the decision making for the energy efficiency standard levels.

G. Improvements to DOE's Analyses

Commenters on DOE's regulatory reform RFI suggested various ways to improve the analytical methods described in the Process Rule, such as enhancing the analysis of standards for employment impacts and the cumulative regulatory burden (*e.g.,* providing for the development of guidance on including cumulative regulatory costs in analysis), the consideration of repair versus replacement dynamics, and improving discount rates. Other commenters suggested simplifying analytical processes and models to improve transparency.

Request for comment: DOE seeks more specificity in the ways in which the Process Rule could be amended to improve DOE's analyses and models, and to achieve burden reduction and increased transparency for regulated entities and the public. DOE seeks comment on how to make the analysis and models more accessible to the public by including improved instructions, user manuals, plain language descriptions, online tutorials, or other means. DOE also seeks comment on increasing the accuracy of the projections made within the analysis. Proposals should be geared to achieving Process Rule objectives such as increasing the use of outside technical expertise; eliminating problematic design options early in the process; conducting a thorough analysis of impacts (including social benefits and costs, distribution of costs, projection of technology progress and the associated price forecasts); and using transparent and robust analytical methods.

H. Other Issues

DOE also seek comment on topics not addressed in the current Process Rule and whether the Process Rule should be amended to address these topics.

Should DOE consider adding to the Process Rule criteria for ''no amended standards'' determinations when supported by data and when small energy savings require significant upfront cost to achieve?

Should DOE consider adding to the Process Rule criteria for consideration of voluntary, non-regulatory, and market-based alternatives to standards-setting?

Should DOE consider adding to the Process Rule criteria for consideration of establishing for each covered product and equipment a baseline for energy savings that qualify as not significant and thus rendering revised energy conservation standards not economically justified?

Should DOE make its compliance with the Process Rule mandatory?

DOE seeks comments and information concerning the issue areas identified above, as well as any other aspects of the Process Rule that commenters believe can be improved. The Department notes that this RFI is issued solely for information and program-planning purposes. While responses to this RFI do not bind DOE to any further actions related to the response, all submissions will be made publically available on *www.regulations.gov.*

Approval of the Office of the Secretary

The Secretary of Energy has approved the publication of this document.

Issued in Washington, DC, on December 5, 2017.

Daniel R. Simmons,

Principal Deputy Assistant Secretary, Energy Efficiency and Renewable Energy, U.S. Department of Energy.

[FR Doc. 2017–27066 Filed 12–15–17; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2017–0589; A–1–FRL–9972–21-Region 1]

Air Plan Approval; VT; Nonattainment New Source Review and Prevention of Significant Deterioration Permit Program Revisions; Infrastructure Requirements for National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve several different revisions to the State Implementation Plan (SIP) submitted to EPA by the Vermont Department of Environmental Conservation (VT DEC). On May 23, 2017, Vermont submitted revisions to EPA satisfying the VT DEC's earlier commitment to adopt and submit revisions that meet certain requirements of the federal Prevention of Significant Deterioration (PSD) air permit program. Vermont's submission also included revisions relating to the federal nonattainment new source review (NNSR) permit program. This action proposes to approve those revisions and also proposes to fully approve certain of Vermont's infrastructure SIPs (ISIPs), which were conditionally approved by EPA on June 27, 2017. Additionally, EPA is proposing to approve several other minor regulatory changes to the SIP submitted by VT DEC on May 23, 2017. This action is being taken in accordance with the Clean Air Act.

DATES: Written comments must be received on or before January 17, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2017–0589 at *http://www.regulations.gov,* or via email to *wortman.eric@epa.gov.* For comments submitted at *Regulations.gov,*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Eric Wortman, Air Permits, Toxics, and Indoor Programs Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail Code OEP05–2), Boston, MA 02109–3912, phone number (617) 918–1624, fax number (617) 918–0624, email *wortman.eric@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

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