

own procedures for claims of administrative error on its part.

(c) The agency, Clerk of the House of Representatives, or Secretary of the Senate, as appropriate, shall determine if administrative error on its part caused an increase in interest due on the deposit amount. OPM shall determine if administrative error on its part caused an increase in interest due on the deposit amount.

(d) OPM's final determination regarding a claim of administrative error on its part is not subject to the due process procedures described in 5 U.S.C. 8461(e).

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## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 2

[NRC-2020-0033]

RIN 3150-AK46

### Non-Substantive Amendments to Adjudicatory Proceeding Requirements

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to revise and clarify the agency's rules of practice and procedure to reflect current Atomic Safety and Licensing Board Panel practice, Commission case law, and a decision of the Supreme Court of the United States and to enhance consistency within the NRC's regulations.

**DATES:** Submit comments by December 7, 2020. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2020-0033. Address questions about NRC dockets to Dawn Forder; telephone: 301-415-3407; email: [Dawn.Forder@nrc.gov](mailto:Dawn.Forder@nrc.gov). For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Email comments to:* [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive an automatic email reply

confirming receipt, then contact us at 301-415-1677.

- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemaking and Adjudications Staff.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Ian Irvin, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-287-9193; email: [2020\\_Part\\_2\\_Rulemaking@usnrc.onmicrosoft.com](mailto:2020_Part_2_Rulemaking@usnrc.onmicrosoft.com).

#### SUPPLEMENTARY INFORMATION:

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#### I. Obtaining Information and Submitting Comments

##### A. Obtaining Information

Please refer to Docket ID NRC-2020-0033 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2020-0033.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *Attention:* The PDR, where you may examine and order copies of public documents is currently closed. You may submit your request to the PDR via email at [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov) or call 1-800-397-4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

##### B. Submitting Comments

The NRC encourages electronic comment submission through the

Federal Rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2020-0033 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

#### II. Rulemaking Procedure

Because the NRC considers this action to be non-controversial, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. The direct final rule will become effective on January 19, 2021. However, if the NRC receives any significant adverse comments by December 7, 2020, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

- (1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

- (a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

- (b) The comment raises an issue serious enough to warrant a substantive

response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC to make a change (other than editorial) to the rule.

For a more detailed discussion of the proposed rule changes and associated analyses, see the direct final rule published in the Rules and Regulations section of this issue of the **Federal Register**.

### III. Background

The NRC's regulations governing the conduct of adjudicatory proceedings before the agency are contained in part 2 of title 10 of the *Code of Federal Regulations* (10 CFR), "Agency Rules of Practice and Procedure." Periodically, the NRC has amended these rules, including adopting changes in 2004 to enhance efficiency; in 2012 to promote fairness, efficiency, and openness; and in 2016 to reflect technological advances and current agency practice. Since the last update to the agency's rules of practice and procedure, the NRC has identified various provisions that should be updated to reflect technological advances and current agency practice. This proposed rule would make those updates and also clarify that any administrative law judge designated to preside over an NRC adjudication must be appointed by the Commission consistent with the Supreme Court decision in *Lucia v. Securities and Exchange Commission* (138 S. Ct. 2044 (2018)).

### IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, "Plain Language in Government Writing," published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to clarity and effectiveness of the language used.

### V. Paperwork Reduction Act

This proposed rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995.

### Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

Dated October 21, 2020.

For the Nuclear Regulatory Commission.

**Margaret M. Doane,**

*Executive Director for Operations.*

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**BILLING CODE 7590-01-P**

## DEPARTMENT OF ENERGY

### 10 CFR Part 430

[EERE-2020-BT-TP-0029]

RIN 1904-AF03

### Energy Conservation Program: Test Procedures for Consumer Products; Early Assessment Review: Portable Air Conditioners

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

**ACTION:** Request for information.

**SUMMARY:** The U.S. Department of Energy ("DOE") is undertaking an early assessment review to determine whether to proceed with a rulemaking to amend the test procedure for portable air conditioners ("AC"). Specifically, through this request for information ("RFI"), DOE seeks data and information that could enable the agency to determine whether DOE should propose not to amend the existing DOE test procedure because an amended test procedure would not more accurately or fully comply with the statutory requirement that the test procedure produces results that measure energy use during a representative average use cycle or period of use for the product, and not be unduly burdensome to conduct. DOE also seeks comment on the availability of consensus-based test procedures for measuring the energy use of portable ACs that more accurately or fully comply with this statutory requirement.

**DATES:** Written comments and information are requested and will be accepted on or before January 19, 2021.

**ADDRESSES:** Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE-2020-BT-TP-0029 and/

or RIN 1904-AF03, by any of the following methods:

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

2. *Email:* to [PortableAC2020TP0029@ee.doe.gov](mailto:PortableAC2020TP0029@ee.doe.gov). Include docket number EERE-2020-BT-TP-0029 and/or RIN 1904-AF03 in the subject line of the message.

3. *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, 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:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, Suite 600, Washington, DC 20024. Telephone: (202) 287-1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies ("faxes") will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document (Submission of Comments).

*Docket:* The docket for this activity, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at <http://www.regulations.gov>. All documents in the docket are listed in the <http://www.regulations.gov> index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at: <http://www.regulations.gov/docket?D=EERE-2020-BT-TP-0029>. The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section III of this document for information on how to submit comments through <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE-5B, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-0371. Email: [ApplianceStandardsQuestions@ee.doe.gov](mailto:ApplianceStandardsQuestions@ee.doe.gov).

Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel,