

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF ENERGY

### 10 CFR Part 430

[EERE-2020-BT-STD-0039]

RIN 1904-AF00

### Energy Conservation Program: Energy Conservation Standards for Consumer Products; Early Assessment Review; Miscellaneous Refrigeration Products

**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 for amended energy conservation standards for miscellaneous refrigeration products to determine whether to amend the applicable energy conservation standards for this product. Specifically, through this request for information (“RFI”), DOE seeks data and information that could enable the agency to determine whether DOE should propose a “no-new-standard” determination because a more-stringent standard: Would not result in a significant savings of energy; is not technologically feasible; is not economically justified; or any combination of the foregoing. DOE welcomes written comments from the public on any subject within the scope of this document (including those topics not specifically raised in this RFI), as well as the submission of data and other relevant information concerning this early assessment review.

**DATES:** Written comments and information are requested and will be accepted on or before February 22, 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-STD-0039, by any of the following methods:

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

2. *Email:* to [MRP2020STD0039@ee.doe.gov](mailto:MRP2020STD0039@ee.doe.gov). Include docket number EERE-2020-BT-STD-0039 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. Telephone: (202) 287-1445. 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.

*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-STD-0039>. The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section III for information on how to submit comments through <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Stephanie Johnson, 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) 287-1943. Email: [ApplianceStandardsQuestions@ee.doe.gov](mailto:ApplianceStandardsQuestions@ee.doe.gov).

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-8145. Email: [Michael.Kido@hq.doe.gov](mailto:Michael.Kido@hq.doe.gov).

For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: [ApplianceStandardsQuestions@ee.doe.gov](mailto:ApplianceStandardsQuestions@ee.doe.gov).

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### I. Introduction

The U.S. Department of Energy (“DOE” or “the Department”) established an early assessment review process to conduct a more focused analysis of a specific set of facts or circumstances that would allow DOE to determine that, based on one or more statutory criteria, a new or amended energy conservation standard is not warranted. The purpose of this review is to limit the resources, from both DOE and stakeholders, committed to rulemakings that will not satisfy the requirements in the Energy Policy and Conservation Act, as amended (“EPCA”),<sup>1</sup> that a new or amended energy conservation standard save a significant amount of energy, and be economically justified and technologically feasible. See 85 FR 8626, 8653-8654 (Feb. 14, 2020).

As part of the early assessment, DOE publishes an RFI in the **Federal Register**, announcing that DOE is considering initiating a rulemaking proceeding and soliciting comments, data, and information on whether a new or amended energy conservation standard would save a significant amount of energy and be technologically feasible and economically justified. Based on the information received in response to the RFI and DOE’s own analysis, DOE will determine whether to

<sup>1</sup> All references to EPCA in this document refer to the statute as amended through America’s Water Infrastructure Act of 2018, Public Law 115-270 (Oct. 23, 2018).

proceed with a rulemaking for a new or amended energy conservation standard.

If DOE makes an initial determination based upon available evidence that a new or amended energy conservation standard would not meet the applicable statutory criteria, DOE would engage in notice and comment rulemaking before issuing a final determination that new or amended energy conservation standards are not warranted. Conversely, if DOE makes an initial determination that a new or amended energy conservation standard would satisfy the applicable statutory criteria or DOE's analysis is inconclusive, DOE would undertake the preliminary stages of a rulemaking to issue a new or amended energy conservation standard. Beginning such a rulemaking, however, would not preclude DOE from later making a determination that a new or amended energy conservation standard cannot satisfy the requirements under EPCA based upon the full suite of DOE's analyses. See 85 FR 8626, 8654 (Feb. 14, 2020).

#### A. Authority

EPCA, among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B<sup>2</sup> of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which, in addition to identifying particular consumer products and commercial equipment as covered under the statute, permits the Secretary of Energy to classify additional types of consumer products as covered products. (42 U.S.C. 6292(a)(20)) DOE added miscellaneous refrigeration products (“MREFs”) as covered products through a final determination of coverage published in the **Federal Register** on July 18, 2016 (the “July 2016 Final Coverage Determination”). 81 FR 46768. MREFs are consumer refrigeration products other than refrigerators, refrigerator-freezers, or freezers, which include coolers and combination cooler refrigeration products. 10 CFR 430.2. MREFs include refrigeration products such as coolers (e.g., wine chillers) and combination cooler refrigeration products (e.g., wine chillers combined with a refrigerator, freezer, or refrigerator-freezer).

Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and

enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

Federal energy efficiency requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c)) DOE may, however, grant waivers of Federal preemption in limited instances for particular State laws or regulations, in accordance with the procedures and other provisions set forth under 42 U.S.C. 6297(d).

EPCA also requires that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE evaluate the energy conservation standards for each type of covered product, including those at issue here, and publish either a notice of determination that the standards do not need to be amended, or a notice of proposed rulemaking (“NOPR”) including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1)) EPCA further provides that, not later than 3 years after the issuance of a final determination not to amend standards, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(3)(B)) DOE must make the analysis on which the determination is based publicly available and provide an opportunity for written comment. (42 U.S.C. 6295(m)(2)) In making a determination, DOE must evaluate whether more stringent standards would: (1) Yield a significant savings in energy use and (2) be both technologically feasible and economically justified. (42 U.S.C. 6295(m)(1))

#### B. Rulemaking History

As noted, DOE added MREFs as covered products through its July 2016 Final Coverage Determination. 81 FR 46768. In that determination, DOE noted that MREFs, on average, consume more than 150 kilowatt hours per year (“kWh/yr”) and that the aggregate annual national energy use of these products exceeds 4.2 terawatt hours (“TWh”). 81 FR 46768, 46775. In addition to establishing coverage, the July 2016 Final Coverage Determination

established definitions for “miscellaneous refrigeration product,” “cooler,” and “combination cooler refrigeration product” in 10 CFR 430.2. 81 FR 46768, 46791–46792. The July 2016 Final Coverage Determination also amended the existing definitions for “refrigerator,” “refrigerator-freezer,” and “freezer” for consistency with the newly established MREF definitions. *Id.*

On October 28, 2016, DOE published a direct final rule (the “October 2016 Direct Final Rule”) in which it adopted energy conservation standards for MREFs consistent with the recommendations from a negotiated rulemaking working group established under the Appliance Standards and Rulemaking Federal Advisory Committee. 81 FR 75194. Concurrent with the October 2016 Direct Final Rule, DOE published a NOPR in which it proposed and requested comments on the standards set forth in the direct final rule. 81 FR 74950. On May 26, 2017, DOE published a notice in the **Federal Register** in which it determined that the comments received in response to the October 2016 Direct Final Rule did not provide a reasonable basis for withdrawing the rule and, therefore, confirmed the adoption of the energy conservation standards established in that direct final rule. 82 FR 24214.

## II. Request for Information

DOE is publishing this RFI to collect data and information during the early assessment review to inform its decision, consistent with its obligations under EPCA, as to whether the Department should proceed with an energy conservation standards rulemaking. Accordingly, in the following sections, DOE has identified specific issues on which it seeks input to aid in its analysis of whether an amended standard for MREFs would not save a significant amount of energy or be technologically feasible or economically justified. In particular, DOE is interested in any information indicating that there has not been sufficient technological or market changes since DOE last conducted an energy conservation standards rulemaking analysis for MREFs to suggest a more-stringent standard could satisfy these criteria. DOE also welcomes comments on other issues relevant to its early assessment that may not specifically be identified in this document.

#### A. Technological Feasibility

During the October 2016 Direct Final Rule, DOE considered a number of technology options that manufacturers could use to reduce energy consumption

<sup>2</sup> For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

in MREFs. See Chapters 3 and 4 of the October 2016 Direct Final Rule TSD. DOE seeks comment on any changes to these technology options that could affect whether DOE could propose a “no-new-standards” determination, such as an insignificant increase in the range of efficiencies and performance characteristics of these technology options. DOE also seeks comment on whether there are any other technology options that DOE should consider in its analysis.

While DOE’s request for information is not limited to the following issues, DOE is particularly interested in comment, information, and data on the following.

*Issue 1:* DOE requests feedback on whether the use of any technology options considered in the October 2016 Direct Final Rule could impact the availability of MREF features or consumer utility. DOE additionally requests information on whether any additional technologies not considered in the October 2016 Direct Final Rule are now available that may further improve efficiencies of MREFs, and on whether such technologies may impact the availability of MREF features or consumer utility.

*Issue 2:* DOE also requests comment on whether the range of efficiencies analyzed in the October 2016 Direct Final Rule is applicable to the current MREF market. Specifically, DOE seeks feedback on whether the max-tech efficiency levels remain valid. If any technology options should no longer be considered for MREFs, or if additional technologies are now available, DOE requests information on what max-tech efficiencies would now be appropriate in light of those changes in available technological options.

### B. Significant Savings of Energy

On October 28, 2016, DOE established an energy conservation standard for MREFs that is expected to result in 0.54 quadrillion British thermal units (“quads”) of site energy savings over a 30-year period,<sup>3</sup> which amounts to energy savings of 58 percent relative to the energy use of MREFs without the established standards. See 81 FR 75194, 75197 and Chapter 10 of the October 2016 Direct Final Rule Technical

<sup>3</sup> This estimate of 0.54 quads reflects site energy savings. The October 2016 Direct Final Rule presented the 30-year energy savings estimate as 1.5 quads, reflecting full-fuel-cycle (“FFC”) energy savings. The FFC measure includes point-of-use (site) energy; the energy losses associated with generation, transmission, and distribution of electricity; and the energy consumed in extracting, processing, and transporting or distributing primary fuels.

Support Document (“TSD”).<sup>4</sup> Additionally, in the 2016 Direct Final Rule, DOE estimated that an energy conservation standard established at an energy use level equivalent to that achieved using the maximum available technology (“max-tech”) would have resulted in 0.20 additional quads of site energy savings. 81 FR 75194, 75244. This level represents a 50-percent reduction in energy use compared to the estimated national energy use at the currently established energy conservation standard level. If DOE determines that a more-stringent energy conservation standard would not result in an additional 0.3 quad of site energy savings or an additional 10-percent reduction in site energy use over a 30-year period, DOE would propose to make a no-new-standards determination. DOE seeks comment on energy savings that could be expected from more-stringent standards for MREFs.

While DOE’s request for information is not limited to the following issues, DOE is particularly interested in comment, information, and data on the following.

*Issue 3:* DOE requests comment on whether the max-tech level analysis from the October 2016 Direct Final Rule is applicable to the current MREF market and on whether the previous estimates of energy savings at the max-tech level represent the savings that would be realized were DOE to establish future amended energy conservation standards at the max-tech level. If not, what level of energy savings are likely if more-stringent standards (consistent with EPCA’s requirements) were considered or adopted.

### C. Economic Justification

In determining whether a proposed energy conservation standard is economically justified, DOE analyzes, among other things, the potential economic impact on consumers, manufacturers, and the Nation. DOE seeks comment on whether there are economic barriers to the adoption of more-stringent energy conservation standards. DOE also seeks comment and data on any other aspects of its economic justification analysis from the October 2016 Direct Final Rule that may indicate whether a more-stringent energy conservation standard would not be economically justified or cost effective.

*Issue 4:* DOE seeks information on the October 2016 Direct Final Rule analysis

<sup>4</sup> The October 2016 Direct Final Rule TSD is available at <https://www.regulations.gov/document?D=EERE-2011-BT-STD-0043-0118>.

resulting in the energy savings estimates. Specifically, DOE requests comment and data on updates to the relevant analysis inputs, including stock of MREFs, shipments, efficiency distributions, and market share by product class.

### III. Submission of Comments

DOE invites all interested parties to submit in writing by February 22, 2021, comments and information on matters addressed in this document and on other matters relevant to DOE’s early assessment of whether more-stringent energy conservation standards are not warranted for MREFs.

*Submitting comments via <http://www.regulations.gov>.* The <http://www.regulations.gov> web page requires you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. If this instruction is followed, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to <http://www.regulations.gov> information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (“CBI”). Comments submitted through <http://www.regulations.gov> cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through <http://www.regulations.gov> before posting. Normally, comments will be posted within a few days of

being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that <http://www.regulations.gov> provides after you have successfully uploaded your comment.

*Submitting comments via email, hand delivery/courier, or postal mail.*

Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to <http://www.regulations.gov>. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English, and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

*Campaign form letters.* Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

*Confidential Business Information.* 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 via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own

determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

DOE considers public participation to be a very important part of the process for developing test procedures and energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of this process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this process should contact Appliance and Equipment Standards Program staff at (202) 287-1445 or via email at [ApplianceStandardsQuestions@ee.doe.gov](mailto:ApplianceStandardsQuestions@ee.doe.gov).

#### Signing Authority

This document of the Department of Energy was signed on December 3, 2020, by Daniel R Simmons, Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE **Federal Register** Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on December 3, 2020.

**Treena V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

[FR Doc. 2020-26969 Filed 12-7-20; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF ENERGY

### 10 CFR Part 431

[EERE-2019-BT-TP-0027]

RIN 1904-AE80

#### Energy Conservation Program: Test Procedures for Commercial Equipment; Early Assessment Review: Packaged Terminal Air Conditioners and Packaged Terminal Heat Pumps

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

**ACTION:** Request for information (RFI).

**SUMMARY:** The U.S. Department of Energy ("DOE") is undertaking an early assessment review to determine whether to proceed with a rulemaking to amend DOE's test procedures for packaged terminal air conditioners ("PTACs") and packaged terminal heat pumps ("PTHPs") to adopt the most recent procedures referenced in the American Society of Heating, Refrigerating and Air-Conditioning Engineers ("ASHRAE") Standard 90.1, "Energy Standard for Buildings Except Low-Rise Residential Buildings," which are consistent with DOE's current test procedures, unless there exists clear and convincing evidence supporting the adoption of alternate procedures. DOE welcomes written comments from the public on any subject within the scope of this document (including topics not raised in this RFI), as well as the submission of data and other relevant information concerning this early assessment review.

**DATES:** Written comments and information will be accepted on or before February 22, 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-2019-BT-TP-0027 and/or RIN 1904-AE80, by any of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
2. *Email:* to [PTACHP2019TP0027@ee.doe.gov](mailto:PTACHP2019TP0027@ee.doe.gov). Include docket number EERE-2019-BT-TP-0027 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.