

# Proposed Rules

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 431

[Docket No. EERE-2014-BT-TP-0006]

RIN 1904-AD16

#### Energy Conservation Program for Certain Commercial and Industrial Equipment: Test Procedure for Commercial Packaged Boilers

**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 initiating a rulemaking and data collection process to consider amendments to DOE's test procedure for commercial packaged boilers. This rulemaking is intended to fulfill DOE's statutory obligation to review its test procedures for covered products at least once every seven years. As part of this process, DOE is considering the potential for adoption of part-load efficiency measurement as part of this test procedure rulemaking for commercial packaged boilers. To help inform the test procedure rulemaking, DOE has identified a variety of issues on which it is seeking comment, as outlined in this document; these issues mainly concern part-load operation and efficiency, appropriate operating conditions for both part-load and full-load operation, and the integration of part-load measurements into the applicable energy efficiency metric. Although DOE welcomes comment on all aspects of its test procedure, DOE is particularly interested in receiving comments and data from stakeholders and the public on these topics.

**DATES:** DOE will accept written comments, data, and information on this document, on or before March 24, 2014.

**ADDRESSES:** Interested persons are encouraged to submit comments electronically. However, interested persons may submit comments, identified by docket number EERE-2014-BT-TP-0006 or Regulation

Identifier Number (RIN) 1904-AD16, by any of the following methods:

- *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the instructions for submitting comments.

- *Email:*

*CommPackagedBoilers2014TP0006@ee.doe.gov* Include docket number EERE-2014-BT-TP-0006 and/or RIN 1904-AD16 in the subject line of the message. All comments should clearly identify the name, address, and if appropriate, organization of the commenter. Submit electronic comments in WordPerfect, Microsoft Word, portable document format (PDF), or American Standard Code for Information Interchange (ASCII) file format, and avoid the use of special characters or any form of encryption.

• *Postal Mail:* Ms. Brenda Edwards, 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.

• *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, 6th Floor, 950 L'Enfant Plaza SW., 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.

**Instructions:** All submissions received must include the agency name and docket number or RIN for this rulemaking. No telefacsimiles (faxes) will be accepted. For further information on the rulemaking process, see section III of this document (Public Participation).

**Docket:** The docket is available for review at [www.regulations.gov](http://www.regulations.gov), including **Federal Register** notices, comments, and other supporting documents/materials (search EERE-2014-BT-TP-0006). All documents in the docket are listed in the [www.regulations.gov](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://www1.eere.energy.gov/buildings/appliance\\_standards/product.aspx/productid/74](http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/74). This Web page contains a link to the docket for this document on the

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[www.regulations.gov](http://www.regulations.gov) site. The [www.regulations.gov](http://www.regulations.gov) Web page contains instructions on how to access all documents, including public comments, in the docket.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Raba, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE-5B, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 586-8654. Email: [commercial\\_packaged\\_boilers@ee.doe.gov](mailto:commercial_packaged_boilers@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. Email: [Eric.Stas@hq.doe.gov](mailto:Eric.Stas@hq.doe.gov).

For information on how to submit or review comments, contact Ms. Brenda Edwards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE-5B, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 586-2945. Email: [Brenda.Edwards@ee.doe.gov](mailto:Brenda.Edwards@ee.doe.gov).

## SUPPLEMENTARY INFORMATION:

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### I. Authority and Background

Title III, Part C<sup>1</sup> of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94-163 (42 U.S.C. 6311–6317, as codified), Public Law 95-619, Title IV § 441(a), sets forth various provisions designed to improve energy efficiency for consumer products and certain commercial and industrial equipment and established the “Energy Conservation Program for Certain Industrial Equipment” (hereafter referred to as “covered equipment”).<sup>2</sup> The Energy Policy Act of 1992 (EPACT 1992), Public Law 102-486, amended EPCA to add commercial packaged boilers as a type of covered equipment. (42 U.S.C. 6311(1)) The Energy

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

<sup>2</sup> All references to EPCA in this document refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA), Public Law 112-210 (Dec. 18, 2012).

Independence and Security Act of 2007 (EISA 2007), Public Law 110–140, further revised EPCA to require that not later than six years after issuance of any final rule establishing or amending a standard,<sup>3</sup> the Secretary of Energy must publish either a notice of determination that the standards for a given type of equipment do not need to be amended, or a notice of proposed rulemaking (NOPR) including new proposed standards. (42 U.S.C. 6313(a)(6)(C)(i)) Additionally, EPCA (as amended) requires DOE to update its test method each time the relevant industry test procedure is modified (42 U.S.C. 6314(a)(4)(B)) and to evaluate its test procedure for each covered class once every seven years (42 U.S.C. 6314(a)(1)(A)).

To fulfill these requirements set forth in EPCA, DOE has initiated a rulemaking to consider amended energy conservation standards for commercial packaged boilers, and, in parallel, DOE will evaluate the commercial packaged boilers test procedure found in the Code of Federal Regulations (CFR) at 10 CFR 431.86, Uniform test method for the measurement of energy efficiency of commercial packaged boilers. DOE issued a notice of public meeting and availability of the Framework Document on August 28, 2013, which was published in the **Federal Register** on September 3, 2013. 78 FR 54197. The Framework Document explains the issues, analyses, and process that DOE is considering for the development of energy conservation standards. Both in the Framework Document and in a public meeting held on October 1, 2013, DOE solicited public comment regarding its approach to the rulemaking process and identified particular issues for which DOE sought comment. The comments received included suggestions for the revision of the DOE test procedure.

In support of its test procedure rulemaking, DOE conducts in-depth technical analyses of publicly-available test standards and other relevant information. DOE continually seeks data and public input to improve its testing methodologies to more accurately reflect consumer use and to produce repeatable results. In general, DOE requests information, comment, and supporting data about representative and repeatable methods for measuring the energy use of commercial packaged boilers. In particular, DOE seeks comment and information about the topics below.

<sup>3</sup> The AEMTCA amendments to EPCA later revised the timeframe for this review requirement for energy conservation standards to “[e]very 6 years.” (42 U.S.C. 6313(a)(6)(C)(i))

## II. Discussion

The DOE test procedure for commercial packaged boilers, set forth at 10 CFR 431.86, incorporates Hydronics Institute/Air-Conditioning, Heating, and Refrigeration Institute Standard BTS–2000 (Rev 06.07), *Method to Determine Efficiency of Commercial Space Heating Boilers*. This test procedure determines the steady-state efficiency of steam or hot water boilers operating at full load.<sup>4</sup> However, through a review of equipment available in the market, DOE understands that the commercial packaged boiler industry is increasingly utilizing modulating burners. Modulating burners are capable of reducing the fuel input rate to more closely match the space heating demand. Because the current test procedure at 10 CFR 431.86 only measures steady-state efficiency at maximum firing rate, it does not account for differences in efficiency when the boiler is operated at lower firing rates. Therefore, DOE is considering test procedure amendments that would adopt part-load test conditions and measurements to more accurately reflect the efficiency of commercial packaged boilers that use modulating burner technology.

In general, DOE requests comment, information, and data about adopting methodologies and measurements to determine part-load efficiency of commercial packaged boilers. Further, DOE particularly requests comment, information, and data about the following:

(1) Should DOE only consider adding a measurement of commercial packaged boiler efficiency at the minimum fuel input ratio in addition to the maximum fuel input? If not, then at what fuel input ratio(s)—fraction of maximum rated capacity—should the efficiency of a commercial packaged boiler be measured?

(2) What are the appropriate inlet and outlet water temperatures (or the appropriate mean temperature and temperature difference between the inlet and outlet water temperatures ( $\Delta T$ )) for part-load testing conditions of hot water boilers. Should this temperature difference ( $\Delta T$ ) be the same as when testing at full capacity?

(3) How many hours can modulating burners be expected or designed to operate under part-load and full-load conditions, respectively, over the course of a year in a typical or average installation?

<sup>4</sup> Thermal efficiency is measured for all types of boilers except for oil-fired and gas-fired hot water boilers greater than 2,500,000 Btu/h in rated capacity, for which combustion efficiency is used.

(4) What benefits and burdens are associated with a part-load efficiency rating and combining the different operating points into a single weighted metric? What are potential ways to combine them?

(5) When considering part-load operation, how would the measurement and inclusion of jacket, sensible, and infiltration losses be addressed in an annual weighted efficiency metric?

(6) What, if any, would be the added test burden of accounting for part-load operation and associated measurement of jacket, sensible, and infiltration losses?

DOE understands that current test conditions (*i.e.*, temperatures and pressures) required under 10 CFR 431.86 and BTS–2000 may differ from typical operating conditions in the field and/or the conditions for which a boiler was designed. While laboratory testing conditions cannot necessarily duplicate field performance, they are intended to provide a reasonable basis for comparison of boiler efficiency and to generate repeatable results, while approximating actual operating conditions to the extent possible. DOE understands that testing conditions prescribed by BTS–2000 may warrant revision. Accordingly, DOE seeks input and comment about:

(1) What are appropriate supply and return water temperatures for hot water boilers operating at full-load and the effect on steady-state efficiency (thermal or combustion) of this potential revision?

(2) What is appropriate steam pressure for steam boilers operating at full-load and the effect on steady-state efficiency (thermal or combustion) of this potential revision? What are concerns, if any, about the impacts on the amount of water carry over and the system operation?

(3) What design characteristics of boilers currently on the market would potentially prohibit testing (short-term operation) at the operating conditions currently prescribed by 10 CFR 431.86 and BTS–2000?

## III. Public Participation

DOE invites all interested parties to submit in writing by the date specified previously in the **DATES** section of this RFI, comments and information on matters addressed in this document and on other matters relevant to DOE's consideration of amended test procedures for commercial packaged boilers.

DOE considers public participation to be a very important part of the process

for developing test procedures. DOE actively encourages the participation and interaction of the public during the comment period at each stage of the rulemaking process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the rulemaking process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this rulemaking should contact Ms. Brenda Edwards at (202) 586-2945, or via email at *Brenda.Edwards@ee.doe.gov*.

Issued in Washington, DC, on February 7, 2014.

**Kathleen B. Hogan,**  
Deputy Assistant Secretary for Energy  
Efficiency, Energy Efficiency and Renewable  
Energy.

[FR Doc. 2014-03299 Filed 2-19-14; 8:45 am]

**BILLING CODE 6450-01-P**

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 222

[Docket No. R-1484]

**RIN 7100 AE14**

### Identity Theft Red Flags (Regulation V)

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice of proposed rulemaking; request for public comment.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) is proposing to amend its Identity Theft Red Flags rule, which implements section 615(e) of the Fair Credit Reporting Act (FCRA). The Red Flag Program Clarification Act of 2010 (Clarification Act) added a definition of “creditor” in FCRA section 615(e) that is specific to section 615(e).

Accordingly, the proposed rule would amend the definition of “creditor” in the Identity Theft Red Flags rule to reflect the definition of that term as added by the statute. The proposed rule would also update a cross-reference in the Identity Theft Red Flags rule to reflect a statutory change in rulemaking authority.

**DATES:** Comments must be received on or before April 21, 2014.

**ADDRESSES:** You may submit comments, identified by Docket No. R-1484, by any of the following methods:

- *Agency Web site:* <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.

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

- *Email:* [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include the docket number in the subject line of the message.

- *FAX:* (202) 452-3819 or (202) 452-3102.

- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board’s Web site at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP-500 of the Board’s Martin Building (20th and C Streets NW.) between 9:00 a.m. and 5:00 p.m. on weekdays.

**FOR FURTHER INFORMATION CONTACT:** Kara L. Handzlik, Counsel, Legal Division, at (202) 452-3852, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263-4869.

### SUPPLEMENTARY INFORMATION:

#### I. Background

On November 9, 2007, the Board, along with the other banking agencies<sup>1</sup> and the Federal Trade Commission (FTC) (collectively, the “Agencies”), published final rules and guidelines on identity theft “red flags” (“Red Flags rule”) to implement section 615(e) of the Fair Credit Reporting Act (FCRA) (15 U.S.C. 1681m(e)).<sup>2</sup> The final rules require each financial institution and creditor that holds any consumer account, or other account for which there is a reasonably foreseeable risk of identity theft, to develop and implement an identity theft prevention program in connection with new and existing accounts. The program must include reasonable policies and procedures for

<sup>1</sup>The other banking agencies included the Office of the Comptroller of the Currency (OCC); Federal Deposit Insurance Corporation (FDIC); Office of Thrift Supervision (OTS); and National Credit Union Administration (NCUA). The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) added the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC) to the list of agencies with rulemaking and enforcement authority under the Fair Credit Reporting Act with respect to the Red Flags rule. Public Law 111-203, 124 Stat. 1376 (2010).

<sup>2</sup>72 FR 63718 (Nov. 9, 2007).

detecting, preventing, and mitigating identity theft. The Agencies also issued guidelines to assist financial institutions and creditors in developing and implementing a program, including a supplement that provides examples of red flags.

The Red Flags rule, implemented in the Board’s Regulation V Subpart J, defines the terms “credit” and “creditor” by cross-reference to FCRA section 603(r)(5). 15 U.S.C. 1681a(r)(5). Section 603(r)(5) defines the terms “credit” and “creditor” by cross-reference to section 702 of the Equal Credit Opportunity Act (ECOA). ECOA section 702 defines “creditor” as “any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit.” 15 U.S.C. 1691a(e). The ECOA defines “credit” as “the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefor.” 15 U.S.C. 1691a(d). Thus, the FCRA’s red flags provisions have been broadly applied to banks, finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunications companies. 12 CFR 222.90(b)(5).

The scope of the Board’s Red Flags rule is set forth in § 222.90(a), which states that the Board’s rule applies to financial institutions and creditors that are state member banks (other than national banks) and their respective operating subsidiaries, branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act. Financial institutions and creditors that are not covered by the Board’s rule are covered by substantially identical rules issued by other federal agencies.

#### II. The Red Flag Program Clarification Act of 2010

On December 18, 2010, Congress enacted the Red Flag Program Clarification Act of 2010 (the Clarification Act).<sup>3</sup> The Clarification Act amended section 615(e) of the FCRA (15 U.S.C. 1681m(e)) by adding a definition of the term “creditor” specific to section 615(e). The Clarification Act continues to define creditor by cross-reference to

<sup>3</sup>Public Law 111-319, 124 Stat. 3457 (Dec. 18, 2010).