

prohibited from interstate movement unless it is treated with an approved quarantine treatment monitored by APHIS. If any *B. dorsalis* are found, the entire consignment of avocados will be prohibited from interstate movement, and the place of production producing that fruit will be suspended from the interstate shipment program until APHIS conducts an investigation and appropriate remedial actions have been implemented.

(g) *Limited distribution.* No Sharwil avocados moved under this program may be shipped to locations in the continental United States other than Colorado, Connecticut, Delaware, District of Columbia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

(h) *Compliance agreement.* Persons wishing to move avocados in accordance with this section must sign a compliance agreement in accordance with § 318.13–3(d) of this part in which he or she agrees to comply with such conditions as may be required by the inspector in each specific case to prevent infestation.

Done in Washington, DC, this 4th day of February 2013.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2013–02781 Filed 2–6–13; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF ENERGY

### 10 CFR Part 430

[Docket No. EERE–2011–BT–TP–0054]

RIN 1904–AC63

#### Energy Conservation Program: Test Procedures for Residential Clothes Dryers

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

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

**SUMMARY:** The U.S. Department of Energy (DOE) proposes to amend its test procedures for residential clothes dryers established under the Energy Policy and Conservation Act. The proposed amendments would clarify the installation conditions for console

lights, the method for measuring the drum capacity, the maximum allowable scale range, and the allowable use of a relative humidity meter.

**DATES:** DOE will accept comments, data, and information regarding this supplemental notice of proposed rulemaking (SNOPR) no later than March 18, 2013. See section IV, “Public Participation,” for details.

**ADDRESSES:** Any comments submitted must identify the SNOPR on Test Procedures for Residential Clothes Dryers, and provide docket number EERE–2011–BT–TP–0054 and/or regulatory information number (RIN) 1904–AC63. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the instructions for submitting comments.
2. *Email:* [RCDAT-2011-TP-0054@ee.doe.gov](mailto:RCDAT-2011-TP-0054@ee.doe.gov). Include docket number EERE–2011–BT–TP–0054 and/or RIN 1904–AC63 in the subject line of the message.
3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.
4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 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.

For detailed instructions on submitting comments and additional information on the rulemaking process, see section IV of this document (Public Participation).

*Docket:* The docket is available for review at [www.regulations.gov](http://www.regulations.gov), including **Federal Register** notices, framework documents, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. 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://www.regulations.gov/#!docketDetail;dct=FR%252BPR%252BN%252BO%252BSR;rpp=10;po=0;D=EERE-2011-BT-TP-0054>. This web page will contain a link to the docket for this notice on the [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. See section IV for information on how to submit comments through [www.regulations.gov](http://www.regulations.gov).

For further information on how to submit a comment or review other public comments and the docket, contact Ms. Brenda Edwards at (202) 586–2945 or email: [Brenda.Edwards@ee.doe.gov](mailto:Brenda.Edwards@ee.doe.gov).

#### FOR FURTHER INFORMATION CONTACT:

Mr. Stephen Witkowski, U.S.

Department of Energy, Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Tel.: (202) 586–7463. Email: [Stephen.Witkowski@ee.doe.gov](mailto:Stephen.Witkowski@ee.doe.gov).

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, 1000 Independence Avenue SW., Washington, DC, 20585–0121. Tel.: (202) 586–7796. Email: [Elizabeth.Kohl@hq.doe.gov](mailto:Elizabeth.Kohl@hq.doe.gov).

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#### I. Authority and Background

Title III of the Energy Policy and Conservation Act (42 U.S.C. 6291, *et seq.*; “EPCA” or “the Act”) sets forth a variety of provisions designed to improve energy efficiency. (All references to EPCA refer to the statute

as amended through the Energy Independence and Security Act of 2007 (EISA 2007), Public Law 110–140 (Dec. 19, 2007)). Part B of title III, which for editorial reasons was re-designated as Part A upon codification in the U.S. Code (42 U.S.C. 6291–6309), establishes the “Energy Conservation Program for Consumer Products Other Than Automobiles.” Covered consumer products include clothes dryers, the subject of today’s notice. (42 U.S.C. 6292(a)(8))

Under EPCA, this program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. The testing requirements consist of test procedures that manufacturers of covered products must use (1) as the basis for certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA, and (2) for making representations about the efficiency of those products. Similarly, DOE must use these test requirements to determine whether the products comply with any relevant standards promulgated under EPCA.

#### *A. General Test Procedure Rulemaking Process*

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA provides in relevant part that any test procedures prescribed or amended under this section must be reasonably designed to produce test results that measure energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

In addition, if DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6293(b)(2)) In any rulemaking to amend a test procedure, DOE must also determine to what extent, if any, the proposed test procedure would alter the measured energy efficiency of any covered product as determined under the existing test procedure. (42 U.S.C. 6293(e))

#### *B. DOE Clothes Dryer Test Procedure*

DOE’s test procedures for clothes dryers are codified in appendix D and appendix D1 to subpart B of Title 10 of the Code of Federal Regulations (CFR). For background on the establishment of the first DOE test procedure for clothes

dryers and subsequent amendments to those procedures, and the rulemaking history for today’s supplemental notice of proposed rulemaking (SNOPR), please see the NOPR published on January 2, 2013. (78 FR 152) (January 2013 NOPR). In today’s SNOPR, DOE considers inquiries from test laboratories regarding specific provisions in the current clothes dryer test procedures. DOE will provide further response to comments received on the January 2013 NOPR, as appropriate, in any final rule to establish amended test procedures.

## **II. Discussion**

### *A. Proposals*

#### *Console Lights*

Section 2.1 in 10 CFR part 430, subpart B, appendices D and D1 specifies for the installation conditions that all console lights or other lighting systems that do not consume more than 10 watts shall be disconnected during the clothes dryer active mode test cycle. DOE received an inquiry requesting clarification of this provision. DOE notes that this provision was originally adopted in a final rule that was published in the **Federal Register** on September 14, 1977 (September 1977 Final Rule). 42 FR 46145, 46146, 46150. DOE intended this provision to apply to an older generation of clothes dryers existing at the time of the September 1977 Final Rule that used task lights to illuminate the area of the dryer for consumers doing the laundry that did not provide any function related to the drying process during the drying cycle. Newer generation clothes dryers equipped with electronic controls may have control setting indicators such as indicator lights showing the cycle progression, temperature or dryness settings, or other cycle functions. In contrast to the task lighting of older generation dryers, these indicator lights associated with cycle settings or the drying operation are fully integrated into the clothes dryer control printed circuit boards (PCBs). In addition, disconnecting such lights would require extracting the control PCB from the dryer and either physically cutting off the indicator lights or destroying their electrical signal traces etched on the PCB.

As a result of these differences, DOE proposes to clarify in section 2.1 in both appendices D and D1 that “console lights or other lighting systems” refers to task lights that do not provide any function during the drying cycle related to the drying process, rather than the control setting indicators in newer generation clothes dryers with

electronic controls. DOE also proposes to clarify that control setting indicators such as indicator lights showing the cycle progression, temperature or dryness settings, or other cycle functions should not be disconnected during the active mode test cycle.

#### *Drum Capacity Measurements*

Section 3.1 in 10 CFR part 430, subpart B, appendices D and D1 specifies that when measuring drum capacity, the drum shall be filled with water to a level determined by the intersection of the door plane and the loading port. In addition, section 3.1 specifies that volume should be added or subtracted as appropriate depending on whether the plastic bag used for the measurement protrudes into the drum interior. DOE received an inquiry requesting clarification of this requirement. In today’s SNOPR, DOE is proposing to amend section 3.1 to clarify that, for the measurement of the drum capacity, the intersection of the door plane and the loading port refers to the uppermost edge of the drum that is in contact with the door seal and that volume should be added or subtracted from the measured water fill volume to account for any space in the drum interior not measured by water fill (e.g., space occupied by the door protruding into the drum interior).

#### *Maximum Allowable Scale Range*

Section 2.4.1 in Appendix D and Appendix D1 specifies that the weighing scale for the test cloth shall have a range of 0 to a maximum of 30 pounds with a resolution of at least 0.2 ounces and a maximum error no greater than 0.3 percent of any measured value within the range of 3 to 15 pounds. Similarly, section 2.4.1.2 in Appendix D and Appendix D1 specifies that the weighing scale for drum capacity measurements should have a range of 0 to a maximum of 500 pounds with resolution of 0.50 pounds and a maximum error no greater than 0.5 percent of the measured value. DOE received an inquiry requesting clarification of this requirement. DOE recognizes that scales for weighing the test cloth may have maximum capacity higher than 30 pounds, but still meet the requirements for resolution and maximum error within the range of 3 to 15 pounds, as specified in the test procedure. DOE also recognizes that a clothes dryer, when filled with water for the drum capacity measurement, could exceed 500 pounds. As a result, DOE proposes in this SNOPR to allow a higher maximum scale range, 600 pounds for weighing the test cloth and 600 pounds for drum capacity

measurements. The resolution and maximum error requirements would remain unchanged.

#### Relative Humidity Meter

Section 2.4.4 in Appendix D and Appendix D1 specifies that the dry and wet bulb psychrometer used for measuring the ambient humidity shall have an error no greater than  $\pm 1$  degrees Fahrenheit ( $^{\circ}\text{F}$ ). DOE received an inquiry requesting clarification of this provision. DOE recognizes that relative humidity meters may be an acceptable means to measure the ambient humidity. DOE also recognizes that some humidity meters may express error tolerances in terms of the dry and wet bulb temperatures, while others express error tolerances in terms of percent relative humidity. As a result, DOE evaluated how the  $\pm 1^{\circ}\text{F}$  tolerance for the dry and wet bulb temperatures translates to relative humidity. DOE determined, based on the allowable range in ambient temperature (72 to 78 $^{\circ}\text{F}$ ) and ambient humidity (40 to 60 percent relative humidity) specified in the DOE test procedure, that a  $\pm 1^{\circ}\text{F}$  tolerance for the dry and wet bulb temperatures would translate to a tolerance between  $\pm 2$  percent and  $\pm 4$  percent relative humidity. As a result, DOE proposes that a relative humidity meter with a maximum error tolerance expressed in  $^{\circ}\text{F}$  equivalent to the requirements the dry and wet bulb psychrometer or with a maximum error tolerance of  $\pm 2$  percent relative humidity would be acceptable for testing.

#### B. Compliance With Other EPCA Requirements

EPCA requires that test procedures shall be reasonably designed to produce test results which measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use. Test procedures must also not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) DOE is only proposing to amend 10 CFR part 430 subpart B, appendices D and D1 in today's SNOPR to clarify the installation conditions for console lights, the method for measuring the drum capacity, the maximum allowable scale range, and the allowable use of a relative humidity meter. Because the proposed amendments would not change the actual testing method and provide additional options for instrumentations while requiring the same resolution and accuracy, DOE does not believe the proposed amendments in today's SNOPR would result in any added test

burden on manufacturers as compared to the current DOE clothes dryer test procedures in 10 CFR part 430, subpart B, appendices D and D1.

EPCA requires that DOE determine whether a proposed test procedure amendment would alter the measured efficiency of a product, thereby requiring adjustment of existing standards. (42 U.S.C. 6293(e)) As discussed above, DOE is only proposing to amendments in today's SNOPR to clarify the installation conditions for console lights, the method for measuring the drum capacity, the maximum allowable scale range, and the allowable use of a relative humidity meter. Because the proposed amendments would not change the actual testing method, DOE has determined that the proposed amendments would not alter the measured efficiency. DOE is, therefore, not considering amendments to the clothes dryer energy conservation standards at 10 CFR 430.32(h)(2)–(3).

### III. Procedural Issues and Regulatory Review

#### A. Review Under Executive Order 12866

The Office of Management and Budget has determined that test procedure rulemakings do not constitute "significant regulatory actions" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

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

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq*) requires preparation of a regulatory flexibility analysis (RFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE's procedures and policies may be viewed on the Office of the General Counsel's Web site (<http://energy.gov/gc/office-general-counsel>). DOE reviewed today's SNOPR under the provisions of the

Regulatory Flexibility Act and the procedures and policies published on February 19, 2003.

In conducting this review, DOE first determined the potential number of affected small entities. The Small Business Administration (SBA) considers an entity to be a small business if, together with its affiliates, it employs fewer than the threshold number of workers specified in 13 CFR part 121 according to the North American Industry Classification System (NAICS) codes. The SBA's Table of Size Standards is available at: [http://www.sba.gov/idc/groups/public/documents/sba\\_homepage/serv\\_sstd\\_tablepdf.pdf](http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf). The threshold number for NAICS classification 335224, *Household Laundry Equipment Manufacturing*, which includes clothes dryer manufacturers, is 1,000 employees.

As discussed in the January 2013 NOPR, DOE initially identified at least 14 manufacturers of residential clothes dryers that sold products in the United States. DOE determined that 13 of these companies exceeded the SBA's maximum number of employees or were foreign-owned and operated. Thus, DOE identified only one potential small business manufacturer of residential clothes dryers. DOE could not locate this manufacturer on the dynamic small business search on the SBA Web site, but DOE nonetheless considered the economic impacts of the proposed test procedure amendments on this potential small business manufacturer. 78 FR 152, 178 (January 2, 2013).

As discussed in section II.A, DOE is only proposing to amend 10 CFR part 430 subpart B, appendices D and D1 today's SNOPR to clarify the installation conditions for console lights, the method for measuring the drum capacity, the maximum allowable scale range, and the allowable use of a relative humidity meter. Because the proposed amendments would not change the actual testing method and provide additional options for instrumentations while requiring the same resolution and accuracy, DOE does not believe the proposed amendments in today's SNOPR would result in any added test burden on manufacturers as compared to the current DOE clothes dryer test procedures in 10 CFR part 430, subpart B, appendices D and D1. For these reasons, DOE certifies that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE seeks comment on the certification set forth above, and will

transmit the certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the SBA for review under 5 U.S.C. 605(b).

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

Manufacturers of clothes dryers must certify to DOE that their products comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for clothes dryers, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including clothes dryers. (76 FR 12422 (March 7, 2011)). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910-1400. Public reporting burden for the certification is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

#### *D. Review Under the National Environmental Policy Act of 1969*

In this SNOPIR, DOE is proposing to adopt test procedure amendments that it expects will be used to develop and implement future energy conservation standards for clothes dryers. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this proposed rule would amend the existing test procedures without affecting the amount, quality or distribution of energy usage, and, therefore, would not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A5 under 10 CFR part 1021, subpart D, which applies to any rulemaking that interprets or amends an existing rule without

changing the environmental effect of that rule. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

#### *E. Review Under Executive Order 13132*

Executive Order 13132, "Federalism," 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of today's SNOPIR. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

#### *F. Review Under Executive Order 12988*

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal

law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the proposed rule meets the relevant standards of Executive Order 12988.

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

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104-4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at <http://energy.gov/gc/office-general-counsel> DOE examined today's SNOPIR according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of \$100 million or more in any year, so these requirements do not apply.

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

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

*I. Review Under Executive Order 12630*

DOE has determined, under Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights" 53 FR 8859 (March 18, 1988), that this regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed today's SNOPR under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

*K. Review Under Executive Order 13211*

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed

statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Today's regulatory action to amend the test procedure for measuring the energy efficiency of clothes dryers is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

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

Under section 301 of the DOE Organization Act (Pub. L. 95-91), DOE must comply with section 32 of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), as amended by the Federal Energy Administration Authorization Act of 1977 (FEAA; Pub. L. 95-70) (15 U.S.C. 788). Section 32 essentially provides that, where a rule authorizes or requires use of commercial standards, the rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition. The amendments proposed in today's SNOPR do not authorize or require the use of any commercial standards.

#### IV. Public Participation

##### *A. Submission of Comments*

DOE will accept comments, data, and information regarding this SNOPR no later than the date provided in the DATES section at the beginning of this proposed rule. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this notice.

Submitting comments via regulations.gov. The regulations.gov Web page will require you to provide your name and contact information. 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.

Do not submit to 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 regulations.gov cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section below.

DOE processes submissions made through 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 regulations.gov provides after you have successfully uploaded your comment.

*Submitting comments via email, hand delivery, or mail.* Comments and documents submitted via email, hand delivery, or mail also will be posted to 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 on 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 mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (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 are 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.** According 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 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.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

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).

#### *B. Issues on Which DOE Seeks Comment*

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties on the following issues:

##### 1. Console Lights

DOE seeks comment on the proposal to clarify in the installation conditions that console lights or other lighting

systems refer to task lights that do not provide any function during the drying cycle related to the drying process and that control setting indicator lights associated with the drying operation or cycle settings that are fully integrated into the clothes dryer controls would not be disconnected during the active mode test cycle. (See section II.A)

##### 2. Drum Capacity Measurement

DOE seeks comment on the proposal to clarify for the drum capacity measurement that the intersection of the door plane and the loading port refers to the uppermost edge of the drum that is in contact with the door seal and that volume should be added or subtracted from the measured water fill volume to account for the space in the drum interior not measured by the water fill, such as the space occupied by the door. DOE also seeks comment on how the volume to be added or subtracted should be measured. (See section II.A)

##### 3. Maximum Scale Range

DOE seeks comment on its proposal to increase the maximum allowable scale range, while retaining the resolution and maximum error requirements.

##### 4. Relative Humidity Meter

DOE seeks comment on its proposal that a relative humidity meter with a maximum error tolerance expressed in °F equivalent to the existing requirements the dry and wet bulb psychrometer or with a maximum error tolerance of  $\pm 2$  percent relative humidity would be acceptable for testing.

#### **V. Approval of the Office of the Secretary**

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

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

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

Issued in Washington, DC, on January 31, 2013.

**Kathleen B. Hogan,**

*Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.*

For the reasons stated in the preamble, DOE is proposing to amend part 430 of title 10 of the Code of Federal Regulations, as set forth below:

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

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

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

■ 2. Appendix D to Subpart B of Part 430 is amended:

■ a. In section 2. *Testing Conditions*, by revising section 2.1, 2.4.1, 2.4.1.2, and 2.4.4; and

■ b. In section 3. *Test Procedures and Measurements*, by revising section 3.1.

The revisions read as follows:

#### **Appendix D to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers**

\* \* \* \* \*

##### **2. Testing Conditions**

2.1 *Installation.* Install the clothes dryer in accordance with manufacturer's instructions. The dryer exhaust shall be restricted by adding the AHAM exhaust simulator described in 3.3.5 of HLD-1. All external joints should be taped to avoid air leakage. Disconnect all lights, such as task lights, that do not provide any information related to the drying process on the clothes dryer which do not consume more than 10 watts during the clothes dryer test cycle. Control setting indicator lights showing the cycle progression, temperature or dryness settings, or other cycle functions that cannot be turned off during the test cycle shall not be disconnected during the active mode test cycle.

\* \* \* \* \*

2.4.1 *Weighing scale for test cloth.* The scale shall have a range of 0 to a maximum of 60 pounds with a resolution of at least 0.2 ounces and a maximum error no greater than 0.3 percent of any measured value within the range of 3 to 15 pounds.

2.4.1.2 *Weighing scale for drum capacity measurements.* The scale should have a range of 0 to a maximum of 600 pounds with resolution of 0.50 pounds and a maximum error no greater than 0.5 percent of the measured value.

\* \* \* \* \*

2.4.4 *Dry and wet bulb psychrometer.* The dry and wet bulb psychrometer shall have an error no greater than  $\pm 1$  °F. A relative humidity meter with a maximum error tolerance expressed in °F equivalent the requirements the dry and wet bulb psychrometer or with a maximum error tolerance of  $\pm 2$  percent relative humidity would be acceptable for measuring the ambient humidity.

\* \* \* \* \*

##### **3. Test Procedures and Measurements**

3.1 *Drum Capacity.* Measure the drum capacity by sealing all openings in the drum except the loading port with a plastic bag, and ensure that all corners and depressions are filled and that there are no extrusions of the plastic bag through the opening in the

drum. Support the dryer's rear drum surface on a platform scale to prevent deflection of the dryer, and record the weight of the empty dryer. Fill the drum with water to a level determined by the intersection of the door plane and the loading port (i.e., the uppermost edge of the drum that is in contact with the door seal). Record the temperature of the water and then the weight of the dryer with the added water and then determine the mass of the water in pounds. Add or subtract the appropriate volume based on the space in the drum interior to account for any space in the drum interior not measured by water fill (e.g., space occupied by the door or the space above the uppermost edge of the drum within a curved door). The drum capacity is calculated as follows:

C = w/d +/- volume adjustment

C = capacity in cubic feet.

w = mass of water in pounds.

d = density of water at the measured temperature in pounds per cubic feet.

\* \* \* \* \*

■ 3. Appendix D1 to Subpart B of Part 430 is amended:

■ a. In section 2. Testing Conditions, by revising sections 2.1, 2.4.1, 2.4.1.2, and 2.4.4; and

■ b. In section 3. Test Procedures and Measurements, by revising sections 3.1 and 3.6.

The additions and revisions read as follows:

Appendix D1 to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers

\* \* \* \* \*

2. Testing Conditions

2.1 Installation. Install the clothes dryer in accordance with manufacturer's instructions. For conventional clothes dryers, as defined in 1.7, the dryer exhaust shall be restricted by adding the AHAM exhaust simulator described in 3.3.5.1 of AHAM HLD-1 (incorporated by reference; see § 430.3). For ventless clothes dryers, as defined in 1.19, the dryer shall be tested without the AHAM exhaust simulator. Where the manufacturer gives the option to use the dryer both with and without a duct, the dryer shall be tested without the exhaust simulator. All external joints should be taped to avoid air leakage. If the manufacturer gives the option to use a ventless clothes dryer, as defined in 1.19, with or without a condensation box, the dryer shall be tested with the condensation box installed. For ventless clothes dryers, the condenser unit of the dryer must remain in place and not be taken out of the dryer for any reason between tests. For drying testing, disconnect all lights, such as task lights, that do not provide any information related to the drying process on the clothes dryer which do not consume more than 10 watts during the clothes dryer test cycle. Control setting indicator lights showing the cycle progression, temperature or dryness settings, or other cycle functions that cannot be turned off during the test cycle shall not be disconnected during the active mode test cycle. For standby and off mode

testing, the clothes dryer shall be installed in accordance with section 5, paragraph 5.2 of IEC 62301 (incorporated by reference; see § 430.3). For standby and off mode testing, do not disconnect console lights or other lighting systems.

\* \* \* \* \*

2.4.1 Weighing scale for test cloth. The scale shall have a range of 0 to a maximum of 60 pounds with a resolution of at least 0.2 ounces and a maximum error no greater than 0.3 percent of any measured value within the range of 3 to 15 pounds.

2.4.1.2 Weighing scale for drum capacity measurements. The scale should have a range of 0 to a maximum of 600 pounds with resolution of 0.50 pounds and a maximum error no greater than 0.5 percent of the measured value.

\* \* \* \* \*

2.4.4 Dry and wet bulb psychrometer. The dry and wet bulb psychrometer shall have an error no greater than ±1 °F. A relative humidity meter with a maximum error tolerance expressed in °F equivalent the requirements the dry and wet bulb psychrometer or with a maximum error tolerance of ± 2 percent relative humidity would be acceptable for measuring the ambient humidity.

\* \* \* \* \*

3. Test Procedures and Measurements

3.1 Drum Capacity. Measure the drum capacity by sealing all openings in the drum except the loading port with a plastic bag, and ensuring that all corners and depressions are filled and that there are no extrusions of the plastic bag through the opening in the drum. Support the dryer's rear drum surface on a platform scale to prevent deflection of the drum surface, and record the weight of the empty dryer. Fill the drum with water to a level determined by the intersection of the door plane and the loading port (i.e., the uppermost edge of the drum that is in contact with the door seal). Record the temperature of the water and then the weight of the dryer with the added water and then determine the mass of the water in pounds. Add or subtract the appropriate volume based on the space in the drum interior to account for any space in the drum interior not measured by water fill (e.g., space occupied by the door or the space above the uppermost edge of the drum within a curved door). The drum capacity is calculated as follows:

C = w/d +/- volume adjustment

C = capacity in cubic feet.

w = mass of water in pounds.

d = density of water at the measured temperature in pounds per cubic feet.

\* \* \* \* \*

3.6 Standby mode and off mode power. Establish the testing conditions set forth in Section 2 "Testing Conditions" of this appendix, except that all lighting systems shall remain connected. If the clothes dryer waits in a higher power state at the start of standby mode or off mode before dropping to a lower power state, as discussed in section 5, paragraph 5.1, note 1 of IEC 62301 (incorporated by reference; see § 430.3), wait until the clothes dryer passes into the lower power state before starting the measurement.

Follow the test procedure specified in section 5, paragraph 5.3 of IEC 62301 for testing in each possible mode as described in 3.6.1 and 3.6.2, except allow the product to stabilize for 30 to 40 minutes and use an energy use measurement period of 10 minutes. For units in which power varies over a cycle, as described in section 5, paragraph 5.3.2 of IEC 62301, use the average power approach described in paragraph 5.3.2(a) of IEC 62301, except allow the product to stabilize for 30 to 40 minutes and use an energy use measurement period not less than 10 minutes.

\* \* \* \* \*

[FR Doc. 2013-02749 Filed 2-6-13; 8:45 am]

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DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket No. EERE-2012-BT-DET-0033]

RIN 1904-AC83

Energy Conservation Program for Consumer Products and Certain Commercial and Industrial Equipment: Proposed Determination of Commercial and Industrial Compressors as Covered Equipment

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

ACTION: Notice of reopening of public comment period.

SUMMARY: This notice announces that the period for submitting comments to the notice of proposed determination, published December 31, 2012, about commercial and industrial compressors is reopening to February 28, 2013.

DATES: The Department of Energy will accept comments, data, and information about the notice of proposed determination, but no later than February 28, 2013.

ADDRESSES: Interested persons may submit comments, identified by docket number EERE-2012-BT-DET-0033 or RIN 1904-AC83, by any of the following methods:

• Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

• Email: CompressorsDetermination.2012DET0033@ee.doe.gov. Include EERE-2012-BT-DET-0033 and/or RIN 1904-AC83 in the subject line of the message.

• Mail: Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 586-2945. Please submit one signed original paper copy.