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[6450-01-P]

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE-2011-BT-STD-0043]

RIN: 1904-AC51

Energy Conservation Standards for Miscellaneous Refrigeration Products: Public Meeting and Availability of the Preliminary Technical Support Document

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

ACTION: Notice of public meeting and availability of preliminary technical support document.

SUMMARY: The U.S. Department of Energy (DOE) will hold a public meeting to discuss and receive comments on the preliminary analysis it has conducted for purposes of establishing energy conservation standards for miscellaneous refrigeration products. The meeting will cover the analytical framework, models, and tools that DOE is using to evaluate whether to set standards for these products; the results of preliminary analyses performed by DOE for the products; the potential energy conservation standard levels

derived from these analyses that DOE could consider for these products; and any other issues relevant to the development of energy conservation standards for miscellaneous refrigeration products. In addition, DOE encourages written comments on these subjects. To inform interested parties and to facilitate this process, DOE has prepared an agenda, a preliminary technical support document (TSD), and briefing materials, which are available on the DOE website at:

http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/71.

DATES: DOE will hold a public meeting on Friday January 9, 2014, from 9 a.m. to 4 p.m., in Washington, DC. Additionally, DOE plans to allow for participation in the public meeting via webinar. DOE will accept comments, data, and other information regarding this rulemaking before or after the public meeting, but no later than **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. See section IV, “Public Participation,” of this notice for details.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E-089, 1000 Independence Avenue, SW., Washington, DC 20585-0121

Interested persons may submit comments, identified by docket number EERE-2011-BT-STD-0043 and/or Regulation Identification Number (RIN) 1904-AC51, by any of the following methods:

- Federal eRulemaking Portal: www.regulations.gov. Follow the instructions for submitting comments.

- Email: WineChillers-2011-STD-0043@ee.doe.gov. Include the docket number EERE-2011-BT-STD-0043 and/or RIN 1904-AC51 in the subject line of the message.
- Mail: Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 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. Please note that comments and CDs sent by mail are often delayed and may be damaged by mail screening processes.
- Hand Delivery/Courier: Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza, SW., Suite 600, Washington, DC 20024. Telephone (202) 586-2945. If possible, please submit all items on CD, in which case it is not necessary to include printed copies.

Docket: The docket is available for review at 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 index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The rulemaking web page can be found at:

http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/71.

This web page contains a link to the docket for this notice on the regulation.gov site. The regulations.gov web page contains instructions on how to access all documents in the docket, including public comments.

For detailed instructions on attending the meeting and submitting comments, and for additional information on the rulemaking process, see section IV, “Public Participation,” of this document. For further information on how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact Ms. Brenda Edwards at (202) 586-2945 or by email:

Brenda.Edwards@ee.doe.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Ashley Armstrong, 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) 586-6590. E-mail: Ashley.Armstrong@ee.doe.gov.

In the Office of the General Counsel, contact 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. E-mail:

Michael.Kido@hq.doe.gov.

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I. Authority

Title III, Part B¹ of the Energy Policy and Conservation Act of 1975, as amended, (EPCA or the Act), Pub. L. 94-163 (42 U.S.C. 6291-6309, as codified) sets forth a variety of provisions designed to improve energy efficiency and established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances.² As part of these statutory provisions, EPCA permits DOE to establish energy conservation standards for those consumer products that are not already explicitly addressed by EPCA provided they meet certain threshold criteria for coverage and specific additional standards-related criteria. See 42 U.S.C. 6292(b) (laying out predicate requirements prior to treating a product as a newly covered

¹ For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

² All references to EPCA in this document refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA), Pub. L. 112-210 (Dec. 18, 2012).

product). See also 42 U.S.C. 6295(l)(1) (detailing the criteria that a newly covered product must meet in order to permit DOE to establish energy conservation standards for that product). This notice addresses a variety of consumer refrigeration products that DOE is evaluating whether to regulate.

The consumer products addressed by this notice are hybrid (or combination) refrigerators, refrigerator-freezers, and freezers (i.e., products that include warm compartments such as wine storage compartments in products that otherwise perform the functions of refrigerators, refrigerator-freezers, or freezers), cooled cabinets (including wine chillers), refrigeration products that do not use vapor-compression refrigeration systems (i.e., products that do not include a compressor and condenser unit as an integral part of the cabinet assembly), and ice makers. Although cooled cabinets (including wine chillers) that use a conventional compressor/condenser system already fall into the covered products category described in 42 U.S.C. 6292(a)(1), they are not covered by energy conservation standards for refrigerators, refrigerator-freezers, and freezers, largely because they are not designed to be capable of achieving compartment temperatures colder than the 39 degrees Fahrenheit (°F) limit specified in DOE's current regulatory definition for "refrigerator." (10 CFR 430.2)

The other remaining products listed in the previous paragraph, however, do not fall into the category described in 42 U.S.C. 6292(a)(1) for coverage of consumer refrigerators, refrigerator-freezers, and freezers. In cases such as these, where a given product is not explicitly covered by EPCA, DOE may classify that product as a covered

product if doing so would satisfy the requirements of 42 U.S.C. 6292(b)(1). That provision states that the Secretary of Energy may classify a type of consumer product as a covered product if: (1) coverage of the product is necessary or appropriate for carrying out the purposes of EPCA and (2) the average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (kWh) per year. DOE preliminarily determined in an October 31, 2013 notice (hereafter referred to as the October 2013 Coverage Proposal) that, in aggregate, the products listed above satisfy the coverage prerequisites of 42 U.S.C. 6292(b)(1). Consequently, DOE proposed to treat these products as a single new product coverage category under EPCA. 78 FR 65223. Should DOE issue a final determination that such products are covered and meet the EPCA requirements in 42 U.S.C. 6295(l)(A), DOE would have the authority to develop energy conservation standards for these products.

In a NOPR for a parallel rulemaking (hereafter referred to as the Test Procedure NOPR), DOE has proposed new test procedures for all the products in this new coverage category. The Test Procedure NOPR proposes that all the products covered in this rulemaking would be collectively defined as “miscellaneous refrigeration products,” which is the term that will be used to refer to these products in this document.

DOE is required to consider standards that: (1) achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified; and (2) result in significant conservation of energy. (42 U.S.C. 6295(o)(2)(A))

and (o)(3)(B)) To determine whether a proposed standard is economically justified, DOE will, after receiving comments on the proposed standard, determine whether the benefits of the standard exceed its burdens to the greatest extent practicable, using the following seven factors:

1. The economic impact of the standard on manufacturers and consumers of products subject to the standard;
2. The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products which are likely to result from the standard;
3. The total projected amount of energy savings likely to result directly from the standard;
4. Any lessening of the utility or the performance of the covered products likely to result from the standard;
5. The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;
6. The need for national energy conservation; and
7. Other factors the Secretary of Energy considers relevant.

(42 U.S.C. 6295(o)(2)(B)(i))

Before proposing a standard, DOE typically seeks public input on the analytical framework, models, and tools that DOE will use to evaluate standards for the product at issue and the results of preliminary analyses DOE performed for the product. This notice

announces the availability of the preliminary TSD, which details the preliminary analyses, discusses the comments DOE received from interested parties on the Framework Document, and summarizes the preliminary results of DOE's analyses. In addition, DOE is announcing a public meeting to solicit feedback from interested parties on its analytical framework, models, and preliminary results.

II. History of Energy Conservation Standards Rulemaking for Miscellaneous Refrigeration Products

A. Background

DOE does not have energy conservation standards for miscellaneous refrigeration products but recognizes the increasing popularity of these particular products. Given the projections of continued sales growth of these products, DOE is examining whether regulating their energy efficiency would satisfy the necessary statutory prerequisites as newly covered products and would help reduce the risk of creating any regulatory gaps that might result in manufacturer or consumer confusion regarding the energy usage of these products.

B. Current Rulemaking Process

In initiating this rulemaking, DOE prepared a Framework Document, "Energy Conservation Standards Rulemaking Framework Document for Wine Chillers and Miscellaneous Refrigeration Products," which describes the procedural and analytical approaches DOE anticipates using to evaluate energy conservation standards for

miscellaneous refrigeration products. This document is available at:

http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/71.

DOE held a public meeting on February 20, 2012, at which it described the various analyses DOE would conduct as part of the rulemaking, such as the engineering analysis, the life-cycle cost (LCC) and payback period (PBP) analyses, and the national impact analysis (NIA). Representatives for manufacturers, trade associations, environmental and energy efficiency advocates, and other interested parties attended the meeting.

Comments received since publication of the Framework Document have helped DOE identify and resolve issues related to the preliminary analyses. Chapter 2 of the preliminary TSD summarizes and addresses the comments received.

III. Summary of the Analyses Performed by DOE

For the products covered in this rulemaking, DOE conducted in-depth technical analyses in the following areas: (1) engineering; (2) markups to determine product price; (3) energy use; (4) life-cycle cost and payback period; and (5) national impacts. The preliminary TSD that presents the methodology and results of each of these analyses is available at:

http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/71.

DOE also conducted, and has included in the preliminary TSD, several other analyses that support the major analyses that DOE anticipates will likely be expanded upon for a notice of proposed rulemaking (NOPR) if DOE determines that new energy conservation standards are technologically feasible, economically justified, and would save a significant amount of energy, based on the information presented to or obtained by the Department. These analyses include: (1) the market and technology assessment; (2) the screening analysis, which contributes to the engineering analysis; and (3) the shipments analysis, which contributes to the LCC and PBP analysis and NIA. In addition to these analyses, DOE has begun preliminary work on the manufacturer impact analysis and has identified the methods to be used for the consumer subgroup analysis, the emissions analysis, the employment impact analysis, the regulatory impact analysis, and the utility impact analysis. DOE will expand on these analyses if it decides to issue a NOPR to propose energy conservation standards for the products at this time.

A. Engineering Analysis

The engineering analysis establishes the relationship between the cost and efficiency levels of the product that DOE is considering regulating by evaluating the impacts flowing from potential energy conservation standards for that product. This relationship serves as the basis for cost-benefit calculations for individual consumers, manufacturers, and the Nation. The engineering analysis identifies representative baseline products, which is the starting point for analyzing technologies that provide energy efficiency improvements. “Baseline products” refers to a model or models having features and technologies typically found in minimally-efficient products currently

available on the market and, for products already subject to energy conservation standards, a model that just meets the current standard. After identifying the baseline models, DOE estimated manufacturer selling prices by using a consistent methodology and pricing scheme that includes material costs and manufacturer markups. Chapter 5 of the preliminary TSD discusses the engineering analysis.

B. Markups to Determine Prices

DOE derives customer prices based on manufacturer markups, retailer markups, distributor markups, contractor markups (where appropriate), and sales taxes. In deriving these markups, DOE determines the major distribution channels for product sales, the markup associated with each party in each distribution channel, and the existence and magnitude of differences between markups for baseline products (baseline markups) and higher-efficiency products (incremental markups). DOE calculates both overall baseline and overall incremental markups based on the markups at each step in each distribution channel. Chapter 6 of the preliminary TSD addresses the markups analysis.

C. Energy Use Analysis

The energy use analysis provides estimates of the annual energy consumption of miscellaneous refrigeration products. The energy use analysis estimates the range of energy consumption of the products that meet each of the efficiency levels considered in a given rulemaking as they are used in the field. DOE uses these values in the LCC and PBP analyses and in the NIA. Chapter 7 of the preliminary TSD addresses the energy use analysis.

D. Life-Cycle Cost and Payback Period Analyses

The LCC and PBP analyses determine the economic impact of potential standards on individual consumers. The LCC is the total cost of purchasing, installing and operating a considered product over the course of its lifetime. The LCC analysis compares the LCCs of products designed to meet possible energy conservation standards with the LCC of the product likely to be installed in the absence of standards. DOE determines LCCs by considering: (1) total installed cost to the purchaser (which consists of manufacturer selling price, distribution chain markups, sales taxes, and installation cost); (2) the operating cost of the product (energy cost, water and wastewater cost in some cases, and maintenance and repair cost); (3) product lifetime; and (4) a discount rate that reflects the real consumer cost of capital and puts the LCC in present-value terms. The PBP represents the number of years needed to recover the increase in purchase price (including installation cost) of higher-efficiency products through savings in the operating cost of the product. PBP is calculated by dividing the incremental increase in installed cost of the higher efficiency product, compared to the baseline product, by the annual savings in operating costs. Chapter 8 of the preliminary TSD addresses the LCC and PBP analyses.

E. National Impact Analysis

The NIA estimates the national energy savings (NES) and the net present value (NPV) of total consumer costs and savings expected to result from new standards at specific efficiency levels (referred to as candidate standard levels). DOE calculated NES

and NPV for each candidate standard level for miscellaneous refrigeration products as the difference between a base-case forecast (without new standards) and the standards-case forecast (with standards). Cumulative energy savings are the sum of the annual NES determined for the lifetime of the products shipped from 2021 to 2050. The NPV is the sum over time of the discounted net savings each year, which consists of the difference between total operating cost savings and increases in total installed costs. Critical inputs to this analysis include shipments projections, estimated product lifetimes, product installed costs and operating costs, product annual energy consumption, the base case efficiency projection, and discount rates. Chapter 10 of the preliminary TSD addresses the NIA.

IV. Public Participation

DOE invites input from the public on all the topics described above. The preliminary analytical results are subject to revision following further review and input from the public. A complete and revised TSD will be made available upon issuance of a NOPR. Any final rule that DOE may issue establishing new energy conservation standards will contain the final analytical results and will be accompanied by a final rule TSD.

DOE encourages those who wish to participate in the public meeting to obtain the preliminary TSD from DOE's website and to be prepared to discuss its contents. Once again, a copy of the preliminary TSD is available at:

http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/71.

However, public meeting participants need not limit their comments to the topics identified in the preliminary TSD; DOE is also interested in receiving views concerning other relevant issues that participants believe would affect energy conservation standards for these products or that DOE should address in the NOPR.

Furthermore, DOE welcomes all interested parties, regardless of whether they participate in the public meeting, to submit in writing by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** comments, data, and information on matters addressed in the preliminary TSD and on other matters relevant to consideration of energy conservation standards for miscellaneous refrigeration products.

The public meeting will be conducted in an informal conference style. A court reporter will be present to record the minutes of the meeting. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by United States antitrust laws.

After the public meeting and the closing of the comment period, DOE will consider all timely-submitted comments and additional information obtained from interested parties, as well as information obtained through further analyses. Afterwards, the Department will publish either a determination that it is declining to set standards for miscellaneous refrigeration products or a NOPR proposing to establish standards for them. The NOPR will include proposed energy conservation standards for the products

covered by the rulemaking, and members of the public will be given an opportunity to submit written and oral comments on the proposed standards.

A. Attendance at Public Meeting

The time and date of the public meeting are listed in the **DATES** and **ADDRESSES** sections at the beginning of this notice. The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E-089, 1000 Independence Avenue, SW., Washington, DC 20585-0121. To attend the public meeting, please notify Ms. Brenda Edwards at (202) 586-2945. Please note that foreign nationals participating in the public meeting are subject to advance security screening procedures which require advance notice prior to attendance at the public meeting. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting Ms. Regina Washington at (202) 586-1214 or by email: regina.washington@ee.doe.gov so that the necessary procedures can be completed.

DOE requires visitors to with laptop computers and other devices, such as tablets, to be checked upon entry into the building. Any person wishing to bring these devices into the Forrestal Building will be required to obtain a property pass. Visitors should avoid bringing these devices, or allow an extra 45 minutes to check in. Please report to the visitor's desk to have devices checked before proceeding through security.

Due to the REAL ID Act implemented by the Department of Homeland Security (DHS), there have been recent changes regarding ID requirements for individuals wishing

to enter Federal buildings from specific states and U.S. territories. Driver's licenses from the following states or territory will not be accepted for building entry and one of the alternate forms of ID listed below will be required. DHS has determined that regular driver's licenses (and ID cards) from the following jurisdictions are not acceptable for entry into DOE facilities: Alaska, American Samoa, Arizona, Louisiana, Maine, Massachusetts, Minnesota, New York, Oklahoma, and Washington. Acceptable alternate forms of Photo-ID include: U.S. Passport or Passport Card; an Enhanced Driver's License or Enhanced ID-Card issued by the states of Minnesota, New York or Washington (Enhanced licenses issued by these states are clearly marked Enhanced or Enhanced Driver's License); a military ID or other Federal government issued Photo-ID card.

You can attend the public meeting via webinar, and registration information, participant instructions, and information about the capabilities available to webinar participants will be published on the following website:

http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/71.

Participants are responsible for ensuring their computer systems are compatible with the webinar software.

The purpose of the meeting is to receive comments and to help DOE understand potential issues associated with this rulemaking. DOE must receive requests to speak at the meeting before 5 p.m. on Friday, December 26, 2014. DOE must receive a signed original and an electronic copy of statements to be given at the public meeting before 5 p.m. on Friday, December 26, 2014.

B. Procedure for Submitting Requests to Speak

Any person who has an interest in this notice or who is a representative of a group or class of persons that has an interest in these issues may request an opportunity to make an oral presentation. Such persons may hand-deliver requests to speak, along with a computer diskette or CD in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format to Ms. Brenda Edwards at the address shown in the **ADDRESSES** section at the beginning of this notice between 9:00 a.m. and 4:00 p.m. Monday through Friday, except Federal holidays. Requests may also be sent by mail to the address shown in the **ADDRESSES** section or email to Brenda.Edwards@ee.doe.gov.

Persons requesting to speak should briefly describe the nature of their interest in this rulemaking and provide a telephone number for contact. DOE requests persons selected to be heard to submit an advance copy of their statements at least two weeks before the public meeting. At its discretion, DOE may permit any person who cannot supply an advance copy of their statement to participate, if that person has made advance alternative arrangements with the Building Technologies Program. The request to give an oral presentation should ask for such alternative arrangements.

C. Conduct of Public Meeting

DOE will designate a DOE official to preside at the public meeting and may also employ a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336

of EPCA. (42 U.S.C. 6306) A court reporter will record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. After the public meeting, interested parties may submit further comments on the proceedings as well as on any aspect of the rulemaking until the end of the comment period.

The public meeting will be conducted in an informal conference style. DOE will present summaries of comments received before the public meeting, allow time for presentations by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a prepared general statement (within DOE-determined time limits) prior to the discussion of specific topics. DOE will permit other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions from DOE and other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be posted on the DOE website and will also be included in the docket, which can be viewed as described in the **Docket** section at the beginning of this notice. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and other information regarding this rulemaking submitted before or after the public meeting, but by no later than the submission date provided at the beginning of this notice. Please submit comments, data, and other information as provided in the **ADDRESSES** section. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format and avoid the use of special characters or any form of encryption. Comments in electronic format should be identified by the Docket Number EERE-2011-BT-STD-0043 and/or RIN 1904-AC51 and, wherever possible, carry the electronic signature of the author. No telefacsimiles (faxes) will be accepted.

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 two copies: one copy of the document including all the information believed to be confidential and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination as to 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) a date upon which such information might lose its confidential nature due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this NOPM.

Issued in Washington, DC, on November 25, 2014



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