

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: [http://www.ams.usda.gov/AMSV1.0/ams.fetch](http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide)

[TemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide](http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide). Any questions about the compliance guide should be sent to Antoinette Carter at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2010–11 fiscal period begins March 1, 2010, and the marketing orders require that the rates of assessment for each fiscal period apply to all assessable nectarines and peaches handled during such fiscal period; (2) the Committees need to have sufficient funds to pay its expenses which are incurred on a continuous basis; (3) handlers are aware of this action which was unanimously recommended by the Committees at public meetings and is similar to other assessment rate actions issued in past years.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 916 and 917 are proposed to be amended as follows:

1. The authority citation for 7 CFR parts 916 and 917 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 916—NECTARINES GROWN IN CALIFORNIA

2. Section 916.234 is revised to read as follows:

§ 916.234 Assessment rate.

On and after March 1, 2010, an assessment rate of \$0.0280 per 25-pound container or container equivalent of nectarines is established for California nectarines.

PART 917—PEACHES GROWN IN CALIFORNIA

3. Section 917.258 is revised to read as follows:

§ 917.258 Assessment rate.

On and after March 1, 2010, an assessment rate of \$0.026 per 25-pound container or container equivalent of peaches is established for California peaches.

Dated: March 30, 2010.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. 2010–7568 Filed 4–2–10; 8:45 am]

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DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2008–BT–TP–0020]

RIN 1904–AB89

Energy Conservation Program for Consumer Products: Test Procedures for Residential Furnaces and Boilers

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

ACTION: Supplemental notice of proposed rulemaking and solicitation of comments.

SUMMARY: In order to implement recent amendments to the Energy Policy and Conservation Act (EPCA) by the Energy Independence and Security Act of 2007 (EISA 2007), the U.S. Department of Energy (DOE) proposed amendments to its test procedures for residential furnaces and boilers to provide for measurement and incorporation of standby mode and off mode energy consumption. A public meeting on the proposed rule was held on August 18, 2009. This supplemental notice of proposed rulemaking (SNOPR) proposes an integrated efficiency descriptor that incorporates standby mode and off mode energy consumption into the statutorily identified efficiency descriptor, Annual Fuel Utilization Efficiency (AFUE).

DATES: DOE will accept comments, data, and information regarding the notice of proposed rulemaking (NOPR) no later than April 20, 2010. For details, see section V, “Public Participation,” of this NOPR.

ADDRESSES: Any comments submitted must identify the SNOPR on Test Procedures for Residential Furnaces and Boilers, and provide the docket number EERE–2008–BT–TP–0020 and/or regulatory information number (RIN) 1904–AB89. Comments may be submitted using any of the following methods:

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

2. *E-mail:* RFB-2008-TP-0020@ee.doe.gov. Include docket number EERE–2008–BT–TP–0020 and/or RIN 1904–AB89 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. Please submit one signed paper original.

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. Please submit one signed paper original.

For detailed instructions on submitting comments and additional information on the rulemaking process, see section V, “Public Participation,” of this document.

Docket: For access to the docket to read background documents or comments received, visit the U.S. Department of Energy, Resource Room of the Building Technologies Program, 6th Floor, 950 L’Enfant Plaza, SW., Washington, DC 20024, (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at the above telephone number for additional information about visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT:

Mr. Mohammed Khan, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–7892. E-mail: Mohammed.Khan@ee.doe.gov.

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC–72, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–9507. E-mail: Eric.Stas@hq.doe.gov.

For information on how to submit or review public comments, contact Ms. Brenda Edwards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. E-mail: Brenda.Edwards@ee.doe.gov.

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I. Background and Authority

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. Part A of Title III (42 U.S.C. 6291–6309) establishes the “Energy Conservation Program for Consumer Products Other Than Automobiles,” including residential furnaces and boilers (all of which are referenced below as “covered products”).¹ (42 U.S.C. 6291(1)–(2) and 6292(a)(5)).

Under the Act, this program consists essentially of three parts: (1) Testing; (2) labeling; and (3) establishing Federal energy conservation standards. The testing requirements consist of test procedures that manufacturers of covered products must use as the basis for certifying to DOE that their products comply with applicable energy conservation standards adopted under EPCA and for representing the efficiency of those products. Similarly, DOE must use these test procedures to determine whether the products comply with standards adopted under EPCA. Under 42 U.S.C. 6293, EPCA sets forth criteria and procedures for DOE’s adoption and amendment of such test procedures. EPCA provides that “[a]ny test procedures prescribed or amended under this section 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, as determined by the Secretary [of Energy], and shall 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)) Finally, in any rulemaking to amend a test procedure, DOE must 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)(1)) If DOE determines that the amended test procedure would alter the measured efficiency of a covered product, DOE must amend the applicable energy conservation standard accordingly. (42 U.S.C. 6293(e)(2))

On December 19, 2007, the Energy Independence and Security Act of 2007 (EISA 2007), Public Law 110–140, was enacted. The EISA 2007 amendments to EPCA, in relevant part, require DOE to amend the test procedures for all covered products to include measures of standby mode and off mode energy consumption. Specifically, section 310 of EISA 2007 provides definitions of “standby mode” and “off mode” (42 U.S.C. 6295(gg)(1)(A)) and permits DOE to amend these definitions in the context of a given product (42 U.S.C. 6295(gg)(1)(B)). The legislation requires integration of such energy consumption “into the overall energy efficiency, energy consumption, or other energy descriptor for each covered product, unless the Secretary determines that—

(i) The current test procedures for a covered product already fully account and incorporate the standby and off mode energy consumption of the covered product; or

(ii) Such an integrated test procedure is technically infeasible for a particular covered product, in which case the Secretary shall prescribe a separate standby mode and off mode energy use test procedure for the covered product, if technically feasible.” (42 U.S.C. 6295(gg)(2)(A))

DOE’s current test procedure for residential furnaces and boilers is found at 10 CFR part 430, subpart B, appendix N. DOE established its test procedures for furnaces and boilers in a final rule published in the **Federal Register** on May 12, 1997. 62 FR 26140. This procedure establishes a means for determining annual energy efficiency and annual energy consumption of gas-fired, oil-fired, and electric furnaces and boilers.

DOE notes that gas-fired and oil-fired furnaces and boilers consume both fossil fuel and electricity, while electric furnaces and boilers only consume electricity. The current test procedure accounts for all fossil-fuel energy consumption over a full-year cycle, thereby satisfying EISA 2007 requirements for fossil-fuel standby mode and off mode energy consumption. Electrical energy consumption in standby mode and off mode, however, is not accounted for in the current test procedure.

II. Summary of the Supplemental Proposed Rule

In the July 2007 NOPR, DOE proposed to add standby mode and off mode energy consumption measurement provisions utilizing the IEC 62301 standard. Standby and off mode electrical energy consumption would not, however, be integrated into AFUE. On further review, DOE has determined that integration of standby and off mode electrical energy consumption into AFUE is technically feasible. Accordingly, this notice proposes an integrated annual fuel utilization efficiency metric.

III. Discussion*A. Integrated Annual Fuel Utilization Efficiency (AFUE_i)*

As mentioned above, DOE has determined that integration of standby mode and off mode electrical energy consumption into the AFUE efficiency descriptor is technically feasible. AFUE is the required energy efficiency descriptor for furnaces. (42 U.S.C. 6291(22)). EISA 2007 requires, if technically feasible, integration of standby energy consumption into the overall energy efficiency, energy consumption or other energy descriptor. Therefore, EISA 2007 requires an integrated AFUE that reflects standby mode and off mode energy consumption for both fossil fuel and electricity. This notice proposes such integration into the AFUE descriptor.

The proposed integrated annual fuel utilization efficiency (AFUE_i) would be the mathematical product of the current AFUE measure and an efficiency quotient that includes, as an addition to the denominator, the standby mode and off mode electricity consumption converted to Btu based on the point-of-use energy content of a kilowatt hour (3412 Btu). This addition would thereby reduce the numeric value of the efficiency quotient in proportion to the relative magnitude of such additional energy consumption. This mathematical form is consistent with how other products have addressed EISA 2007, in particular how the standby mode and off mode energy consumption is integrated into existing efficiency descriptors.

This proposed formula would use the point-of-use energy content of a kilowatt hour (3412 Btu) because the statute defines “energy use” as “the quantity of energy directly consumed by a consumer product at point of use” (42 U.S.C. 6291 (4)) DOE recognizes that combining fossil fuel (natural gas) and electricity consumption based on their point-of-use energy content tends to

¹ All references to EPCA in this rulemaking refer to the statute as amended through the Energy Independence and Security Act of 2007, Public Law 110–140.

understate the relative energy and economic impacts of the electricity use. However, DOE proposes an integrated metric given the statutory definition of energy use and the statutory mandate to establish an integrated measure of energy efficiency, if technically feasible. Furthermore, in this case, DOE expects that the possible distortions resulting from the combination of fossil fuel and electricity measures of point-of-use energy use are likely to be very small. DOE invites comment on this approach to combining the natural gas and electricity use of furnaces. DOE also invites comment on modifications that can be made to the adjustment factor that can more accurately characterize the relative impacts of electricity and fossil fuel use while maintaining consistency with existing statute.

Because there are some slight differences in the terminology and formulation used in the existing test procedure for electric furnaces and boilers as compared to fossil fueled furnaces and boilers, DOE discusses the proposed integrated AFUE_I separately for each product in the following paragraphs.

For fossil fueled furnaces and boilers, the proposed integrated annual fuel utilization efficiency would be expressed as a function of the useful heat energy provided by the primary fuel divided by the sum of the primary fuel energy consumption and the standby mode and off mode energy consumption with all terms in equivalent energy units.

The mathematical form of the expression would be as follows:

$$AFUE_I = (AFUE * E_F) / (E_F + (3412 * E_{SO}))$$

Where:

AFUE = as stated in the existing test procedures.

E_F = Average annual fuel consumption (Btu).
 3412 = conversion factor to express energy in Btu instead of kWh.

E_{SO} = Average annual electrical standby and off mode energy consumption (kWh).

For electric furnaces and boilers, the proposed integrated annual utilization efficiency would be presented as the useful heat provided by the annual total electrical energy minus the off mode annual energy consumption all divided by the annual total electrical consumption.

The mathematical form of the expression would be as follows:

$$AFUE_I = (AFUE * (E_E - (P_{OFF} * 4600))) / (E_E)$$

Where:

AFUE = as stated in existing test procedure.
 $(E_E - (P_{OFF} * 4600))$ = Average annual total electric consumption minus the average annual off mode electrical

energy consumption defined as the product of the measured off mode power (P_{OFF}) and the average number of non-heating season hours per year.

E_E = Average annual total electrical consumption including standby mode and off mode consumption.

This integrated AFUE for electric furnaces and boilers, although seemingly different in mathematical form, is conceptually the same as the integrated AFUE for fossil fueled furnaces and boilers. Specifically, it is an integrated efficiency quotient that includes, as an addition to the denominator, the standby mode and off mode energy consumption. The differences result from the fact there is no need for a conversion to equivalent energy units and the existing test procedure's energy consumption terms are structured differently for electric furnaces and boilers as compared to fossil fueled furnaces and boilers. The different structure results from the existing test procedure's assumption that auxiliary electrical energy consumption provides useful heat to the heated space. This assumption applies when one considers the standby mode but not off mode because the electric energy consumption during the non heating season is not considered useful heat. The proposed equation for electric furnaces and boilers recognizes this difference.

B. Proposed Amendments Relationship With Energy Conservation Standards

Today's proposal would integrate standby and off mode electrical energy use into the AFUE efficiency descriptor, as required by EPCA. (42 U.S.C. 6295(gg)(2)(A)) DOE will consider use of this proposed efficiency descriptor in any rulemaking procedure to prescribe standards for furnaces and boilers, again as required by EPCA. (42 U.S.C. 6295(gg)(3)).

C. Compliance With Other EPCA Requirements

EPCA requires that "[a]ny test procedures prescribed or amended under this section 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 * * * and shall not be unduly burdensome to conduct." (42 U.S.C. 6293(b)(3))

Today's supplemental proposed amendments to the DOE test procedure would only add two new equations to the calculation section of the test procedure. These calculations utilize existing or proposed terms and,

accordingly, pose no additional testing burden.

IV. Procedural Requirements

DOE has concluded that the determinations made pursuant to the various procedural requirements applicable to the July 27 NOPR remain unchanged for this SNOPR. These determinations are set forth in the July 27 NOPR. (74 FR 36959, 36966–68 July 27, 2009)

V. Public Participation

DOE will accept comments, data, and information regarding the proposed rule no later than the date provided at the beginning of this notice. Comments, data, and information submitted to DOE's e-mail address for this rulemaking should be provided in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format. Stakeholders should avoid the use of special characters or any form of encryption, and wherever possible comments should include the electronic signature of the author. Comments, data, and information submitted to DOE via mail or hand delivery/courier should include one signed paper original. 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 that includes all of the information believed to be confidential, and one copy of the document with that information deleted. DOE will determine the confidential status of the information and treat it accordingly.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include the following: (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 was previously made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person that 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.

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this 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 March 29, 2010.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE proposes to amend part 430 of chapter II of title 10 of the Code of Federal Regulations, to read 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 N to subpart B of part 430 is amended by revising section 10.1 to read as follows:

Appendix N to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Furnaces and Boilers

* * * * *

10.1 Annual fuel utilization efficiency and integrated annual fuel utilization efficiency. The annual fuel utilization efficiency (AFUE) is as defined in sections 11.2.12 (non-condensing systems), 11.3.12 (condensing systems), 11.4.12 (non-condensing modulating systems) and 11.5.12 (condensing modulating systems) of ANSI/ASHRAE Standard 103–1993, (incorporated by reference; see § 430.3) except for the definition for the term Eff_{HS} in the defining equation for AFUE. Eff_{HS} is defined as: Eff_{HS} =heating seasonal efficiency as defined in sections 11.2.11 (non-condensing systems), 11.3.11 (condensing systems), 11.4.11 (non-condensing modulating systems) and 11.5.11 (condensing modulating systems) of ANSI/ASHRAE Standard 103–1993 and is based on the assumptions that all weatherized warm air furnaces or boilers are located out-of-doors, that warm air furnaces which are not weatherized are installed as isolated combustion systems, and that boilers which are not weatherized are installed indoors.

The integrated annual fuel utilization efficiency (AFUE_I) is defined as follows:

For fossil fueled furnaces and boilers:

$$\text{AFUE}_I = (\text{AFUE} * E_F) / (E_F + (3412 * E_{\text{SO}}))$$

Where:

AFUE = as defined above in this section.
 E_F = Average annual fuel consumption defined in section 10.2.2.

3412 = conversion factor to express energy in Btu's instead of KWh.

E_{SO} = Average annual electrical standby and off mode energy consumption as defined in section 10.9.

For electric furnaces and boilers:

$$\text{AFUE}_I = (\text{AFUE} * (E_E - (P_{\text{OFF}} * 4600))) / (E_E)$$

Where:

AFUE = as defined in section 10.3.

$(E_E - (P_{\text{OFF}} * 4600))$ = Average annual total electric consumption as defined in section 10.3 minus the average annual off mode electrical energy consumption defined as the product of the measured off mode power (P_{OFF}) from section 8.6 and the average number of non-heating season hours per year defined in section 10.9.

E_E = Average annual total electrical consumption including standby mode and off mode consumption as defined in section 10.3.

* * * * *

[FR Doc. 2010–7610 Filed 4–2–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket No. EERE–2007–BT–CRT–0009]

Agency Information Collection: Energy Conservation Program: Compliance and Certification Information Collection for Electric Motors

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

ACTION: Notice and request for comment.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995, has initiated through the Office of Management and Budget (OMB) the mandatory Compliance Certification information collection request for certain 1 through 200 horsepower electric motors covered under the Energy Policy and Conservation Act (EPCA), as amended, Public Law 94–163, codified at, 42 U.S.C. 6291 *et seq.* Under EPCA, a manufacturer or private labeler must certify its compliance with energy efficiency standards for certain commercial and industrial electric motors. 42 U.S.C. 6316(c) and 10 CFR 431.36.

DATES: Comments regarding this collection must be received on or before May 5, 2010.

ADDRESSES: Comments must identify the information collection for electric motors and provide the docket number EERE–2007–BT–CRT–0009. In addition, comments must be submitted to: DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102,

735 17th Street, NW., Washington, DC 20503, and to DOE. Comments to DOE may be submitted using any of the following methods:

- Mr. James Raba, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Ave., SW., Washington, DC 20585–0121 (submit one signed copy) or by fax at (202) 586–4617 or by e-mail at jim.raba@ee.doe.gov.

- E-mail:

appliance.information@ee.doe.gov.

Include the docket number in the subject line of the message.

- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza, SW., Suite 600, Washington, DC 20024–2123.

Telephone: (202) 586–2945. Please submit one signed original paper copy.

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

FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information or copies of the information collection instrument and instructions to Mr. James Raba, U.S. Department of Energy, Building Technologies Program (EE–2J), 950 L'Enfant Plaza, Washington, DC 20024–2123, (202) 586–8654, jim.raba@ee.doe.gov.

In the Office of the General Counsel, contact Ms. Francine Pinto or Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC–72, 1000 Independence Avenue, SW., Washington, DC 20085. Telephone: (202) 586–9507. E-mail: Francine.Pinto@hq.doe.gov or Michael.Kido@hq.doe.gov.

Background: EPCA establishes energy efficiency standards and test procedures for certain commercial and industrial equipment, including electric motors, 42 U.S.C. 6291 *et seq.*, and states in relevant part that, “the Secretary [of Energy] shall require manufacturers to certify” that each electric motor meets the applicable efficiency standards. (42 U.S.C. 6316(c)) To achieve this end, EPCA authorizes the Secretary to issue the necessary rules requiring each manufacturer or private labeler of covered electric motors to submit information and reports to ensure compliance. (42 U.S.C. 6316(a)) This directive is carried out under 10 CFR 431.36, Compliance Certification, which requires a manufacturer or private labeler to submit a compliance statement, as well as a certification report that provides energy efficiency information for each basic model of electric motor that it distributes in commerce in the United States.