## Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

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14. The DHS, ICE LESC ACRIMe system of records consists of electronic and paper records and will be used by DHS and its components. Law Enforcement Support Center Alien Criminal Response Information Management System is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to: The enforcement of civil and criminal laws; investigations, inquiries, and proceedings thereunder; and national security and intelligence activities. Law Enforcement Support Center Alien Criminal Response Information Management System contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, State, local, tribal, foreign, or international government agencies. Pursuant to exemption 5 U.S.C. 552a(j)(2) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), and (e)(5) and (e)(8); (f), and (g). Pursuant to 5 U.S.C. 552a(k)(2) of the Privacy Act, this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation, and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, to the existence of the investigation, and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in identifying or establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of an investigation, thereby interfering with the related investigation and law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information would impede law enforcement in that it could compromise investigations by: Revealing the existence of an otherwise confidential investigation and thereby provide an opportunity for the subject of an investigation to conceal evidence, alter patterns of behavior, or take other actions that could thwart investigative efforts; reveal the identity of witnesses in investigations, thereby providing an opportunity for the subjects of the investigations or others to harass, intimidate, or otherwise interfere with the collection of evidence or other information from such witnesses; or reveal the identity of confidential informants, which would negatively affect the informant's usefulness in any ongoing or future investigations and discourage members of the public from cooperating as confidential informants in any future investigations.

(f) From subsections (e)(4)(G), (H) (Agency Requirements), and (f) (Agency Rules) because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(g) From subsection (e)(5) (Collection of Information) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS' ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal, and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act relating to individuals' rights to access and amend their records contained in the system. Therefore DHS is not required to establish rules or procedures pursuant to which individuals may seek a civil remedy for the agency's: Refusal to amend a record; refusal to comply with a request for access to records; failure to maintain accurate, relevant, timely and complete records; or failure to otherwise comply with an individual's right to access or amend records.

Dated: November 28, 2008.

**Hugo Teufel III,**

*Chief Privacy Officer, Department of Homeland Security.*

[FR Doc. E8–29058 Filed 12–8–08; 8:45 am]

**BILLING CODE 4410–10–P**

## DEPARTMENT OF ENERGY

## 10 CFR Part 430

**[Docket No. EERE–2008–BT–TP–0010]**

**RIN 1904–AB76**

## Energy Conservation Program for Consumer Products: Test Procedures for Clothes Dryers and Room Air Conditioners

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

**ACTION:** Notice of proposed rulemaking and notice of public meeting.

**SUMMARY:** In order to implement recent amendments to the Energy Policy and Conservation Act (EPCA), the U.S. Department of Energy (DOE) proposes to amend its test procedures for residential clothes dryers and room air conditioners to provide for measurement of standby mode and off mode power use by these products. The amendments would incorporate into the DOE test procedures relevant provisions from the International Electrotechnical Commission's (IEC) Standard 62301, ''Household electrical appliances—Measurement of standby power'' (First Edition 2005–06), as well as language to clarify application of these provisions specifically for measuring standby mode and off mode power consumption in clothes dryers and room air conditioners. DOE will hold a public meeting to discuss and receive comments on the issues presented in this notice.

**DATES:** DOE will accept comments, data, and information regarding the notice of

proposed rulemaking (NOPR) before and after the public meeting, but no later than February 23, 2009. *See* section V, ''Public Participation,'' of this NOPR for details.

DOE will hold a public meeting on Wednesday, December 17, 2008, from 9 a.m. to 4 p.m., in Washington, DC. DOE must receive requests to speak at the public meeting before 4 p.m., Wednesday, December 10, 2008. DOE must receive a signed original and an electronic copy of statements to be given at the public meeting before 4 p.m., Wednesday, December 10, 2008.

**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. To attend the public meeting, please notify Ms. Brenda Edwards at (202) 586–2945. (Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. Any foreign national wishing to participate in the public meeting should advise DOE as soon as possible by contacting Ms. Edwards to initiate the necessary procedures.)

Any comments submitted must identify the NOPR on Test Procedures for Clothes Dryers and Room Air Conditioners, and provide the docket number EERE–2008–BT–TP–0010 and/or Regulatory Information Number (RIN) 1904–AB76. 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: AHAM2-2008-TP-0010@hq.doe.gov*. Include docket number EERE–2008–BT–TP–0010 and/or RIN 1904–AB76 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, 950 L'Enfant Plaza, SW., Suite 600, 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, 950 L'Enfant Plaza, SW., Suite 600, 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. Stephen Witkowski, 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) 586–7463. *E-mail: Stephen.Witkowski@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 and on how to participate in the public meeting, 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*.

**SUPPLEMENTARY INFORMATION:**

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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, in context, ''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 clothes dryers and room air conditioners (all of which are referred to below as ''covered products'').[1] (42 U.S.C. 6291(1)–(2) and 6292(a)(2) and (8))

Under the Act, this program consists essentially of three parts: (1) Testing; (2) labeling; and (3) Federal energy conservation standards. The testing requirements consist of test procedures that, pursuant to EPCA, manufacturers

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

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 representations about the efficiency of those products. Similarly, DOE must use these test requirements to determine whether the products comply with EPCA standards. 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 thereon, with a comment period no less than 60 days and not to exceed 270 days. (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))

DOE's test procedures for clothes dryers are found at 10 CFR part 430, subpart B, appendix D. DOE established its test procedure for clothes dryers in a final rule published in the **Federal Register** on May 19, 1981. 46 FR 27324. The test procedure includes provisions for determining the energy factor (EF) for clothes dryers, which is a measure of the total energy required to dry a standard test load of laundry to a ''bone dry'' [2] state.

DOE's test procedures for room air conditioners are found at 10 CFR part 430, subpart B, appendix F. DOE established its room air conditioner test procedure on June 1, 1977, and redesignated and amended it on June 29, 1979. 42 FR 27898; 44 FR 37938. The existing room air conditioner test procedure incorporates by reference two industry test standards: (1) American National Standard (ANS) (since renamed American National Standards Institute (ANSI)) Z234.1–1972, ''Room Air Conditioners;'' [3] and (2) American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 16–69, ''Method of Testing for Rating Room Air Conditioners.'' [4] The DOE test procedure includes provisions for determining the energy efficiency ratio (EER) of room air conditioners, which is the ratio of the cooling capacity in British thermal units (Btu) to the power input in watts (W).

As currently drafted, the test procedures for the products at issue in this rulemaking generally do not account for standby mode and off mode energy consumption, except in one narrow product class. Specifically, for gas dryers with continuously burning pilot lights, DOE's current test procedure for clothes dryers addresses the standby energy use of such pilot lights, but otherwise, neither this test procedure nor DOE's test procedure for room air conditioners addresses energy use in the standby or off modes.

The Energy Independence and Security Act of 2007 [5] (EISA 2007) amended EPCA, and in relevant part, directs DOE to amend its test procedures to include measures of standby mode and off mode energy consumption. The EISA 2007 amendments to EPCA further direct DOE to amend the test procedures to integrate such energy consumption into a single energy descriptor for that product. If that is technically infeasible, DOE must prescribe a separate standby mode and off mode energy use test procedure, if technically feasible. (42 U.S.C. 6295(gg)(2)(A)) Any such amendment must consider the most current versions of the International Electrotechnical Commission (IEC) Standard 62301 and IEC Standard 62087 [''Methods of measurement for the power consumption of audio, video, and related equipment'' (Second Edition, 2008–09)].[6] *Id.* For clothes dryers and room air conditioners, DOE must prescribe any such amendment to the test procedures by March 31, 2009. (42 U.S.C. 6295(gg)(2)(B)(ii))

On October 9, 2007, DOE published a notice in the **Federal Register** announcing the availability of a framework document to initiate rulemaking to consider amended energy conservation standards for residential clothes dryers and room air conditioners (hereafter the October 2007 Framework Document). 72 FR 57254. The issuance of a framework document is the first step in conducting an appliance standards rulemaking. In the October 2007 Framework Document, DOE identified specific ways in which it could revise its test procedures for these two products and requested stakeholder comment on whether it should adopt such revisions. Specifically, DOE sought comment on potential amendments to the clothes dryer test procedure to: (1) Reflect lower remaining moisture content in clothes loads; (2) account for fewer use cycles; and (3) add the capability to test vent-less clothes dryers. (Framework Document, No. 1 at pp. 4–6) [7] For room air conditioners, DOE requested input on potential amendments to the test procedure to: (1) Incorporate the most recent ANSI and ASHRAE test standards; (2) reduce the annual operating hours; and (3) measure part-load performance. (Framework Document, No. 1 at pp. 6–7)

Because the October 2007 Framework Document was issued before the enactment of EISA 2007, these potential revisions did not address standby mode or off mode energy use. DOE is continuing to consider all such potential revisions, but in this rulemaking, DOE's proposal is limited to amending its test procedures for clothes dryers and room air conditioners to include methods for measuring standby mode and off mode power consumption, thereby allowing the agency to meet the EISA 2007 deadline of March 31, 2009 for adopting such amendments. DOE plans to publish a separate **Federal Register** notice to address the balance of the test procedure issues, including those on which it requested comment in the October 2007 Framework Document.

Both test procedure rulemakings are anticipated to support a concurrent energy conservation standards rulemaking for residential clothes dryers

[2] ''Bone dry'' is defined in the DOE clothes dryer test procedure as ''a condition of a load of test clothes which has been dried in a dryer at maximum temperature for a minimum of 10 minutes, removed and weighed before cool down, and then dried again for 10-minute periods until the final weight change of the load is 1 percent or less.'' (10 CFR subpart B, appendix D, section 1.2)

[3] ANSI standards are available for purchase at *http://www.ansi.org.*

[4] ASHRAE standards are available for purchase at *http://www.ashrae.org.*

[5] Public Law 110–140 (enacted Dec. 19, 2007).

[6] IEC standards are available for purchase at: *http://www.iec.ch.*

[7] A notation in this form provides a reference for information that is in the docket of DOE's rulemaking to develop standards for clothes dryers and room air conditioners (Docket No. EERE–2007–BT–STD–0010), which is maintained in the Resource Room of the Building Technologies Program. This notation indicates that the statement preceding the reference was made in DOE's Framework Document, which is document number 1 in the docket, and appears at pages 4–6 of that document.

and room air conditioners. For clothes dryers, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, amended EPCA to establish prescriptive standards for clothes dryers, requiring that gas dryers manufactured on or after January 1, 1988 not be equipped with a constant burning pilot and further requiring that DOE conduct two cycles of rulemakings to determine if more stringent standards are justified. (42 U.S.C. 6295(g)(3) and (4)) On May 14, 1991, DOE published a final rule in the **Federal Register** establishing the first set of performance standards for residential clothes dryers (56 FR 22250); the new standards became effective on May 14, 1994. 10 CFR 430.32(h). DOE initiated a second standards rulemaking for residential clothes dryers by publishing an advance notice of proposed rulemaking (ANOPR) in the **Federal Register** on November 14, 1994. 59 FR 56423. However, pursuant to the priority-setting process outlined in DOE's ''Procedures for Consideration of New or Revised Energy Conservation Standards for Consumer Products'' (the ''Process Rule''),[8] DOE classified the clothes dryer standards rulemaking as a low priority for its fiscal year 1998 priority-setting process. As a result, DOE suspended the standards rulemaking activities for them. DOE has since resumed the rulemaking activities, and has recently initiated the second cycle of clothes dryer standards rulemakings. 72 FR 57254 (October 9, 2007).

NAECA established performance standards for room air conditioners that became effective on January 1, 1990, and directed DOE to conduct two cycles of rulemakings to determine if more stringent standards are justified. (42 U.S.C. 6295(c)(1) and (2)) On March 4, 1994, DOE published a NOPR for several products, including room air conditioners. 59 FR 10464. As a result of the Process Rule, DOE suspended activities to finalize standards for room air conditioners. DOE subsequently resumed rulemaking activities related to room air conditioners, and on September 24, 1997, DOE published a final rule establishing an updated set of performance standards, with an effective date of October 1, 2000. 62 FR 50122; 10 CFR 40.32(b). Concurrent with the clothes dryer rulemaking, DOE has recently initiated the second cycle of room air conditioner standards rulemakings. 72 FR 57254.

EISA 2007 includes amendments to EPCA that direct DOE to incorporate standby and off mode energy use into any final rule establishing or revising a standard for a covered product adopted after July 1, 2010. (42 U.S.C. 6295(gg)(3)) DOE anticipates publishing the next final rule revising efficiency standards for clothes dryers and room air conditioners by June 30, 2011. Because publication of the final rule revising efficiency standards will fall after July 1, 2010 (the date after which any final rule establishing or revising a standard must incorporate standby and off mode energy use), this final rule must incorporate standby and off mode energy use, thereby necessitating the adoption of relevant standby and off mode provisions into the test procedures for these products.

## II. Summary of the Proposal

In today's NOPR, DOE proposes to amend the test procedures for clothes dryers and room air conditioners in order to: (1) Provide a foundation for DOE to develop and implement energy conservation standards that address the energy use of these products when in standby mode and off mode; and (2) address the statutory requirement to expand test procedures to incorporate measures of standby mode and off mode power consumption. The following paragraphs summarize these proposed changes.

In amending the current test procedures, DOE proposes to incorporate by reference into both the clothes dryer and room air conditioner test procedures specific clauses from IEC Standard 62301, ''Household electrical appliances—measurement of standby power'' (First Edition, 2005–06) regarding test conditions and test procedures for measuring standby mode and off mode power consumption. DOE also proposes to incorporate into each test procedure the definitions of ''active mode,'' ''standby mode,'' and ''off mode'' that are set forth in section 325(gg)(1)(A) of EPCA. (42 U.S.C. 6295(gg)(1)(A)) Further, DOE proposes to include in each test procedure additional language that would clarify the application of clauses from IEC Standard 62301 for measuring standby mode and off mode power consumption.[9]

For clothes dryers, DOE is proposing definitions for different standby modes—a general ''inactive'' mode, a ''cycle finished'' mode, and a ''delay start'' mode—each of which would be separately tested under the procedure, along with energy use in the off mode. Furthermore, DOE proposes to clarify testing in the delay start mode by requiring that the delay time be set at 5 hours and that the test be conducted for 60 minutes, after waiting at least 5 minutes for power input to stabilize. Finally, DOE proposes to establish new methods to calculate clothes dryer energy use and energy efficiency that include the energy used in the standby modes and the off mode.

For room air conditioners, DOE proposes definitions for different standby modes—a general ''inactive'' mode, a ''delay start'' mode, and an ''off-cycle'' mode—each of which would be separately tested under the procedure, along with energy use in the off mode. DOE also proposes to specify the test duration for cases in which the measured power is unstable (*i.e.*, varies more than 5 percent during a 5-minute period), and proposes that standby mode and off mode testing be conducted with roomside air temperature at 74 ± 2 degrees Fahrenheit (°F) to reflect typical operating conditions for room air conditioners. In addition, DOE proposes to specify that, during standby mode and off mode testing for which setting the thermostat or temperature setpoint[10] is applicable, the setpoint for the room air conditioner is to be set at 79 °F, in order to provide uniform testing conditions. Finally, DOE proposes to establish new methods to calculate energy use and energy efficiency, which include energy use in the standby modes and the off mode.

Under 42 U.S.C. 6295(gg)(2)(C), EPCA provides that amendments to the test procedures to include standby mode and off mode energy consumption will not determine compliance with previously established standards. (U.S.C. 6295(gg)(2)(C)) Because the proposed amended test procedures would not alter existing measures of energy consumption or efficiency, today's notice would not affect a manufacturer's ability to demonstrate compliance with previously established standards. These amended test procedures would become effective, in terms of adoption into the CFR, 30 days after the date of publication in the **Federal Register** of the final rule in this test procedures rulemaking. However, DOE's amended test procedure regulations codified in the CFR would

[8] 61 FR 36974 (July 15, 1996) (*establishing* 10 CFR part 430, subpart C, appendix A).

[9] EISA 2007 directs DOE to also consider IEC Standard 62087 when amending its test procedure to include standby mode and off mode energy consumption. *See* 42 U.S.C. 6295(gg)(2)(A). However, IEC Standard 62087 addresses the methods of measuring the power consumption of audio, video, and related equipment. As explained subsequently in this notice, the narrow scope of this particular IEC Standard reduces its relevance to today's proposal.

[10] The term ''setpoint'' refers to the desired value in a closed-loop feedback system and is typically used in the context of regulating temperature or pressure.

clarify that the procedures and calculations for standby mode and off mode energy consumption need not be performed to determine compliance with the current energy conservation standards for clothes dryers and room air conditioners, because the current energy conservation standards do not account for standby and off mode power consumption. Instead, manufacturers would be required to use the test procedures' standby and off mode provisions to demonstrate compliance with DOE's energy conservation standards on the effective date of a final rule establishing amended energy conservation standards for these products that address standby and off mode power consumption.

## III. Discussion

### *A. Products Covered by the Test Procedure Changes*

Today's proposed amendments to DOE's clothes dryer test procedure cover both electric and gas clothes dryers, which DOE's regulations define as:

*Electric clothes dryer* means a cabinet-like appliance designed to dry fabrics in a tumble-type drum with forced air circulation. The heat source is electricity and the drum and blower(s) are driven by an electric motor(s).

*Gas clothes dryers* means a cabinet-like appliance designed to dry fabrics in a tumble-type drum with forced air circulation. The heat source is gas and the drum and blower(s) are driven by an electric motor(s).

*10 CFR 430.2*

These definitions and the proposed amendments thereto cover both vented and vent-less clothes dryers, as well as combination washer/dryers.

Today's proposed amendments to DOE's room air conditioner test procedure cover products that meet the following definition from DOE's regulations:

*Room air conditioner* means a consumer product, other than a ''packaged terminal air conditioner,'' which is powered by a single phase electric current and which is an encased assembly designed as a unit for mounting in a window or through the wall for the purpose of providing delivery of conditioned air to an enclosed space. It includes a prime source of refrigeration and may include a means for ventilating and heating.

*10 CFR 430.2*

This definition and the proposed amendments thereto cover room air conditioners designed for single- or double-hung windows with or without louvered sides and with or without reverse cycle, as well as casement-slider and casement-only window-type room air conditioners.

### *B. Effective Date for the Amended Test Procedures*

As indicated above, EPCA requires DOE to amend the test procedures for clothes dryers and room air conditioners to incorporate measurement of standby mode and off mode energy use in a final rule issued no later than March 31, 2009. Such action is necessary to permit manufacturers to certify that equipment complies with any newly established energy conservation standards that take into account standby and off mode energy use. When DOE is developing energy conservation standards and determines that test procedure amendments are required, DOE strives to issue a final rule amending the test procedure before issuing a proposed rule for energy conservation standards. The effective date of the modified clothes dryer and room air conditioner test procedures would be 30 days after the date of publication in the **Federal Register** of a final rule in this test procedures rulemaking. However, DOE's amended test procedure regulations codified in the CFR would clarify that the procedures and calculations for standby mode and off mode energy consumption need not be performed to determine compliance with the current energy conservation standards for clothes dryers and room air conditioners, because the current energy conservation standards do not account for standby and off mode power consumption.[11] The proposed notes regarding the applicability of the test procedure provisions on standby mode and off mode energy use in Appendix D (clothes dryers) and Appendix F (room air conditioners) will be removed in subsequent notices of final rulemaking that amend the energy conservation standards for these products.

[11] Pursuant to a court consent decree, DOE must complete a standards rulemaking for residential clothes dryers and room air conditioners by June 30, 2011. As part of the rulemaking considering amended energy conservation standards for these products, DOE will also address the issue of standby and off mode power consumption. If adopted, such standards would be effective in June 2014, at which time the standby and off mode provisions of the test procedures would become mandatory for determining compliance with the amended energy conservation standards.

### *C. Incorporating by Reference IEC Standard 62301 (First Edition, 2005–06) for Measuring Standby Mode and Off Mode Power in Clothes Dryers and Room Air Conditioners*

Per EPCA, DOE considered the most current versions of IEC Standard 62301 and IEC Standard 62087 for measuring power consumption in standby mode and off mode. (42 U.S.C. 6295(gg)(2)(A)) DOE noted that IEC Standard 62301 provides for measuring standby power in electrical appliances, including clothes dryers and room air conditioners, and, thus, is applicable to the proposed amendments to the clothes dryer and room air conditioner test procedures. DOE also reviewed IEC Standard 62087, which specifies methods of measuring the power consumption of TV receivers, video cassette recorders (VCRs), set top boxes, audio equipment, and multi-function equipment for consumer use. IEC Standard 62087 does not, however, include measurement for the power consumption of electrical appliances such as clothes dryers and room air conditioners. Therefore, DOE determined that IEC Standard 62087 was unsuitable for the proposed amendments to the clothes dryer and room air conditioner test procedures.

DOE proposes to incorporate by reference into the DOE test procedures for clothes dryers and room air conditioners specific clauses from IEC Standard 62301 for measuring standby mode and off mode power. Specifically, these clauses provide test conditions and test procedures for measuring the average standby mode and average off mode power consumption. Regarding testing conditions, section 4 of IEC Standard 62301 provides conditions for the supply voltage, frequency, and voltage waveform, and power measurement meter tolerances to provide for repeatable and precise measurements of standby mode and off mode power consumption. Section 5 of IEC Standard 62301 regarding test procedures provides a method for measuring power consumption when the power measurement is stable, as well as a method of measuring when the power measurement is unstable.

Other provisions of IEC Standard 62301 are not applicable to measuring standby mode and off mode power testing of clothes dryers and room air conditioners. Hence, not all provisions of IEC Standard 62301 are incorporated by reference into the DOE test procedures. For example, IEC Standard 62301 provides general conditions for power supply voltage and frequency, which the current DOE test procedure

for clothes dryers already addresses. IEC Standard 62301 also provides requirements for information to be recorded in a test report, which are beyond the scope of DOE's test procedure. Consequently, only the applicable sections and clauses (as stated above) are incorporated by reference in today's proposed rule.

Specifically, DOE proposes to incorporate by reference in the DOE test procedure for clothes dryers the following sections from IEC Standard 62301: From section 4 (''General conditions for measurements''), paragraph 4.2, ''Test room,'' paragraph 4.4, ''Supply voltage waveform,'' and paragraph 4.5, ''Power measurement accuracy;'' and section 5 (''Measurements''), paragraph 5.1, ''General'' and paragraph 5.3, ''Procedure.'' DOE proposes to reference these same provisions in the DOE test procedure for room air conditioners, as well as section 4, paragraph 4.3, ''Power supply.''

The EPCA requirement to consider IEC Standard 62301 in developing modified test procedures for clothes dryers and room air conditioners presents a potential conflict in defining ''standby mode.'' EPCA defines ''standby mode'' as the condition in which a product is connected to a main power source and offers one or more of the following user-oriented or protective functions: (1) To facilitate the activation or deactivation of other functions (including active mode) by remote switch (including remote control), internal sensor, or timer; and/or (2) to provide continuous functions, including information or status displays (including clocks) or sensor-based functions. (42 U.S.C. 6295(gg)(1)(A)(iii)). In contrast, paragraph 3.1 of the current version of IEC Standard 62301 defines ''standby mode'' as the ''lowest power consumption mode which cannot be switched off (influenced) by the user and that may persist for an indefinite time when an appliance is connected to the main electricity supply and used in accordance with the manufacturer's instructions.'' In addition, prior to EISA 2007, DOE adopted a definition for ''standby mode'' nearly identical to that of IEC Standard 62301 in the dishwasher test procedure, in which ''standby mode'' ''means the lowest power consumption mode which cannot be switched off or influenced by the user and that may persist for an indefinite time when an appliance is connected to the main electricity supply and used in accordance with the manufacturer's instructions.'' (10 CFR part 430, subpart B, appendix C, section 1.14). DOE welcomes comment on the appropriate approach for resolving these inconsistencies between EPCA, the IEC Standard 62301 which EPCA references, and the precedent set by the dishwasher test procedure. While EPCA specifies that DOE may consider the definition for ''standby mode'' provided in the most current version of IEC Standard 62301 in updating its test procedure, DOE proposes to adopt the broader, statutory definition of ''standby mode'' provided in EPCA for reasons of greater specificity and clarity, and to include that definition in the test procedures for clothes dryers and room air conditioners.

Further, the agency notes that, while section 325(gg)(2)(A) of EPCA (42 U.S.C. 6295(gg)(2)(A)) requires that the amended test procedures consider the most current version of IEC Standard 62301, the IEC is developing an updated version of this standard, IEC Standard 62301 (Second Edition). This updated version of IEC Standard 62301 is expected to include definitions of ''off mode,'' ''network-connected standby mode,'' and ''disconnected mode,'' and would also revise the current IEC Standard 62301 definition of ''standby mode.'' However, because the IEC anticipates that this new version of Standard 62301 will likely be published in July 2009, this later version of the standard will be unavailable in time for DOE to consider it and to still meet the EISA 2007 deadline for issuance of a final rule amending the relevant test procedure to include measures of standby mode and off mode energy consumption by March 31, 2009. See 42 U.S.C. 6295(gg)(2)(B)(ii). Hence, the First Edition 2005–06 of IEC Standard 62301 will be the ''current version'' at the time of publication of the final rule, so consideration thereof will comply with EPCA. Accordingly, DOE plans to use the First Edition 2005–06 of IEC Standard 62301 in today's proposed test procedure. After the final rule is published, amendments to the referenced standards would be adopted by DOE only if the agency later incorporates them into its procedures.

In reviewing alternative standby power test procedures for potential amendments to the DOE test procedure, DOE also investigated both testing conditions and testing methods specified in the test procedures used by countries that are considered to be international leaders in reducing standby power consumption. These countries include Japan, Korea, and Australia, all of which use procedures similar to those of IEC Standard 62301, and/or reference that standard.

*D. Determination of Modes To Be Incorporated*

As noted above, DOE proposes to incorporate into the clothes dryer and room air conditioner test procedure the definitions of ''active mode,'' ''standby mode,'' and ''off mode'' specified by EPCA. EPCA defines ''active mode'' as ''the condition in which an energy-using product—

(I) Is connected to a main power source;

(II) Has been activated; and

(III) Provides 1 or more main functions.''

(42 U.S.C. 6295(gg)(1)(A)(i))

EPCA defines ''standby mode'' as ''the condition in which an energy-using product—

(I) Is connected to a main power source; and

(II) Offers 1 or more of the following user-oriented or protective functions:

(aa) To facilitate the activation or deactivation of other functions (including active mode) by remote switch (including remote control), internal sensor, or timer.

(bb) Continuous functions, including information or status displays (including clocks) or sensor-based functions.''

(42 U.S.C. 6295(gg)(1)(A)(iii)) This definition differs from the one provided in IEC Standard 62301 by permitting the inclusion of multiple standby modes.

EPCA defines ''off mode'' as ''the condition in which an energy-using product —

(I) Is connected to a main power source; and

(II) Is not providing any standby mode or active mode function.'' [12]

(42 U.S.C. 6295(gg)(1)(A)(ii))

DOE recognizes that these definitions for ''active mode,'' ''standby mode,'' and ''off mode'' were developed to be broadly applicable for many energy-using products. For specific products

[12] DOE notes that some features that provide consumer utility, such as displays and remote controls, are associated with standby mode and not off mode. A clothes dryer or room air conditioner is considered to be in ''off mode'' if it is plugged in to a main power source, is not being used for an active function such as drying clothing or providing cooling, and is consuming power for features other than a display, controls (including a remote control), or sensors required to reactivate it from a low power state. For example, a clothes dryer with mechanical controls and no display or continuously-energized moisture sensor, but that consumed power for components such as a power supply when the unit was not activated, would be considered to be in off mode when not providing an active function. For room air conditioners, a unit with mechanical controls and no display or remote control but with a power supply which is consuming energy, for example, could be considered to be in off mode while not providing an active function.

with multiple functions, these broad definitions could lead to unintended consequences if the meaning of ''main functions'' is narrowly interpreted, as illustrated by the following example:

A ''room air conditioner,'' as defined in section III.A, provides delivery of conditioned air to an enclosed space. This product includes a prime source of refrigeration and may include a means for ventilating and heating. A narrow interpretation of this definition would be that the main function of providing delivery of conditioned air is strictly a cooling function. Such an interpretation would imply that delivery of cooled air is the only active mode under the EPCA definition, as amended by EISA 2007. Under such an interpretation, operation of the room air conditioner fan without operation of the compressor would likely be considered an off mode, since it does not strictly fit the definition of standby mode and because off mode includes all modes which are not standby mode or active mode.

To address this potential problem, DOE proposes to amend to the clothes dryer and room air conditioner test procedures to clarify the range of main functions that would be classified as active mode functions. DOE further proposes to amend the clothes dryer and room air conditioner test procedures to define multiple standby modes that would be separately tested under the procedures. DOE welcomes comment on the above approach.

1. Clothes Dryer Mode Definitions

DOE proposes the following mode definitions for clothes dryers:

''Active mode'' means a mode in which the clothes dryer is performing the main function of tumbling the clothing with or without heated or unheated forced air circulation to remove moisture from the clothing and/or remove or prevent wrinkling of the clothing;

''Inactive mode'' means a standby mode other than delay start mode or cycle finished mode that facilitates the activation of active mode by remote switch (including remote control), internal sensor, or timer, or provides continuous status display;

''Cycle finished mode'' means a standby mode that provides continuous status display following operation in active mode;

''Delay start mode'' means a standby mode that facilitates the activation of active mode by timer; and

''Off mode'' means a mode in which the clothes dryer is not performing any active or standby function.

2. Room Air Conditioner Mode Definitions

For room air conditioners, DOE proposes the following mode definitions:

''Active mode'' means a mode in which the room air conditioner is performing the main function of cooling or heating the conditioned space, or circulating air through activation of its fan or blower, with or without energizing active air-cleaning components or devices such as ultraviolet (UV) radiation, electrostatic filters, ozone generators, or other air-cleaning devices;

''Inactive mode'' means a standby mode other than delay start mode or off-cycle mode that facilitates the activation of active mode by remote switch (including remote control) or internal sensor or provides continuous status display;

''Delay start mode'' means a standby mode in which activation of an active mode is facilitated by a timer;

''Off-cycle mode'' means a standby mode in which the room air conditioner: (1) Has cycled off its main function by thermostat or temperature sensor; (2) does not have its fan or blower operating; and (3) will reactivate the main function according to the thermostat or temperature sensor signal;

''Off mode'' means a mode in which a room air conditioner is not performing any active or standby function.

Off-cycle mode could be considered part of an active mode in which a room air conditioner is cycling its compressor on and off to maintain an average room temperature. However, since the current test procedure treats the cooling mode as occuring only when the compressor is operating, DOE proposes the off-cycle mode to account for the time when the space is being conditioned and the compressor and fan are not operating.

*E. Adding Specifications for the Test Methods and Measurements for Clothes Dryer and Room Air Conditioner Standby Mode and Off Mode Testing*

DOE is proposing test procedures for measuring all standby and off modes associated with clothes dryers and room air conditioners. This section discusses product-specific clarifications of the procedures of IEC Standard 62301 when used to measure standby and off mode energy use for clothes dryers and room air conditioners.

1. Clothes Dryers

DOE understands that displays on clothes dryers may reduce power consumption by dimming after a certain period of user inactivity. For those clothes dryers for which the power input in inactive mode varies in this fashion during testing, DOE proposes that the test be conducted after the power level has dropped to its low level.

DOE understands that clothes dryers with a delay start capability may use varying amounts of power during delay start mode depending on the delay time, the time displayed, and/or display indication of mode status. Paragraph 5.3.1 of section 5.3 ''Procedure'' of IEC Standard 62301 instructs a test technician to ''[c]onnect the product to be tested to the metering equipment, and select the mode to be measured. After the product has been allowed to stabilize for at least 5 min., monitor the power consumption for not less than an additional 5 min.'' The lack of specificity in this language regarding the test period could allow a manufacturer to measure standby power consumption by selecting delay start times with relatively low power consumption, producing test results that would neither be comparable to those obtained using other time periods nor represent the true standby power consumption of its clothes dryers. Consequently, to ensure comparable and valid results, DOE proposes to include in the clothes dryer test procedure a specification for the delay start time to be set at 5 hours, and for power to be monitored for 60 minutes after waiting at least 5 minutes for power input to stabilize.

In determining the specifications for delay start parameters, DOE considered the possibility that display power input would depend on the time displayed, which is typically the time in hours remaining before the start. Displays may be one or two digits. Some two-digit displays may show whole numbers for remaining delay hours of 10 or more and both the ones and tenths digits for remaining delay hours of 9.9 or less. By analyzing the number of light emitting diodes (LEDs) activated in LED displays of the remaining hours over a range of delay times, DOE concluded that the average number of LEDs lit for the range of all possible delay times would be best approximated by the average LEDs lit for either single-digit or two-digit displays in a 60-minute test if the delay time is set at 5 hours. DOE also is aware that some clothes dryers with the delay start feature do not allow delay time greater than 5 hours.

DOE proposes to adopt the test room ambient temperature specified by IEC Standard 62301 for standby mode and off mode testing. Under these conditions, the test room ambient temperature would be 73.4 ± 9 °F, which is slightly different from the

ambient temperature currently specified for DOE's drying performance tests of clothes dryers (75 ± 3 °F). Today's proposal, however, permits manufacturers who opt to test simultaneously for all three conditions to do so using the current ambient temperature requirements for drying tests, since these are within the limits specified by IEC Standard 62301. Alternatively, the proposed temperature specifications would allow a manufacturer that opts to conduct standby mode and off mode testing separately from drying tests more latitude in maintaining ambient conditions. DOE requests comment on the appropriateness of this proposed modified test room ambient temperature range.

2. Room Air Conditioners

A given unit or model of a room air conditioner with a temperature, clock, or timer display may use varying amounts of standby power depending on the numbers being displayed. During preliminary testing conducted by DOE for room air conditioners (''RAC Standby Testing''), for a two-digit display capable of displaying temperature or delay start time, standby power use for different digit combinations was observed to vary by as much as 22 percent. (RAC Standby Testing, No. 1 at p.1) Paragraph 5.3.1 of section 5.3 ''Procedure'' of IEC Standard 62301 instructs a test technician to ''[c]onnect the product to be tested to the metering equipment, and select the mode to be measured. After the product has been allowed to stabilize for at least 5 min., monitor the power consumption for not less than an additional 5 min.'' As with clothes dryers, the lack of specificity in this IEC Standard 62301 language regarding the test period or control setting could allow a manufacturer to measure standby power consumption by selecting temperatures or time periods with relatively low power consumption, thereby producing test results that would not be comparable to those obtained using other temperatures or time periods and that would not represent the true standby power consumption of its room air conditioners. In addition, different manufacturers could take different approaches in selecting cycles for testing.

Another concern arises when a room air conditioner has a delay start mode. To ensure comparable and valid results, DOE proposes to include in this test procedure a separate test in the delay start mode, in which the unit is set to a delay start time of 5 hours and the power is monitored for 60 minutes after allowing the power input level to stabilize for at least 5 minutes. The rationale for specifying the 5-hour delay start time and the 60-minute measurement time is the same as that presented above regarding selection of parameters for clothes dryer testing in delay start mode (*i.e.*, the average power consumption of a display for these conditions would be most representative of average power consumption under the entire range of possible delay hours).

DOE recognizes that different room air conditioners provide different temperature displays when operating. Some room air conditioners display actual room temperature, while others display setpoint temperature. DOE proposes to address the possibility of these different approaches by requiring that the test room temperature be maintained at 74 ± 2 °F and that the room setpoint temperature be set at 79 °F. DOE selected this test room temperature, which is lower than the room air temperature which is specified for the existing DOE cooling performance tests (80 ± 0.5 °F), because DOE has tentatively concluded that the display energy consumption associated with the proposed room temperature range would be the most representative of an average display energy consumption over all reasonable room temperature conditions. DOE considered that a different number of LEDs may be energized in an LED display, depending on actual room or setpoint temperature. For the specified room temperature range and setpoint, the average power consumption for the possible combinations of LEDs energized would be close to the average power consumption for the full range of reasonable actual room and setpoint temperatures displayed (*i.e.*, 70 °F to 85 °F). Hence, the chosen room ambient and setpoint temperatures would ensure that: (1) The power consumption of any display, whether indicating actual or setpoint temperature, represents an average power consumption associated with the range of typical user room temperatures and setpoints; and (2) the room air conditioner will not cycle the compressor on, since the setpoint will be higher than actual room ambient temperature. DOE also notes that, although the 80 ± 0.5 °F room air temperature specified by the current test procedure falls within the allowable range specified in IEC Standard 62301 (73.4 ± 9 °F), the proposed test room temperature would be more representative of conditions in which a room air conditioner would likely be in standby mode, since it is reasonable to assume the unit would be in active mode if the room air temperature were near 80 °F. DOE requests comment on the appropriateness of this proposed modified test room ambient temperature range.

DOE believes that IEC Standard 62301 is otherwise suitable to address possible variation in the power levels associated with the off and standby modes, requiring only appropriate lengthening of the sample period, averaging of the power input, and measurement of a number of complete cycles, if necessary, to capture cyclic power input.

*F. Calculation of Energy Use Associated With Standby Modes and Off Mode*

Measurements of energy consumption associated with each standby and off mode for clothes dryers and room air conditioners are expressed in W. The total energy impact of the power expended in these modes depends on both the power level in W of each mode and the time spent in each mode. This section discusses the approach proposed for clothes dryers and room air conditioners for calculating energy use associated with standby modes and off mode and the numbers of hours proposed to be associated with each mode.

1. Clothes Dryers

Energy use for clothes dryers is expressed in terms of total energy use per drying cycle; measurements of standby and off mode energy use will be expressed in this fashion as well, in order to maintain consistency. Energy used during a drying cycle is directly measured as energy use per cycle in the test procedure, although adjustments are made to the directly measured energy to account for differences between test and field conditions. The energy use associated with continuously burning pilot lights of gas dryers is measured and is converted to an energy use per cycle by dividing calculated annual gas energy use by the representative average number of drying cycles per year (*i.e.*, 416). 10 CFR part 430, subpart B, appendix D, section 4.4. This procedure for gas pilot lights provides an approach for calculating standby power consumption.

In the existing test procedure, energy use per cycle for continuously burning pilot lights is calculated by multiplying the energy use measured for a period of one hour by an established number of hours per year that the dryer is not in drying mode, and dividing by the representative average cycles per year. The existing test procedure established that a gas clothes dryer is in the drying mode 140 hours per year, and that the

balance of the year (8,620 hours) is the established number of hours associated with the pilot light energy consumption.

DOE proposes to adopt a similar approach for measuring energy consumption during standby and off modes for clothes dryers. Specifically, DOE proposes to adopt the current 140 hours associated with drying (*i.e.*, the active mode) and to associate the remaining 8,620 hours of the year with the standby and off modes. DOE is proposing this approach because it believes that the number of drying hours established in the existing test procedure for gas dryers is a reasonable representation of the active mode hours for all dryers, and because, to date, DOE has not identified any other reliable data regarding average dryer cycle times. DOE welcomes information and data on such average cycle times, as well as annual dryer usage.

In order to establish the number of hours per year in each standby and off mode, as defined in section III.D.1, DOE investigated studies of dryer usage patterns and found only one study of the time spent by clothes dryers in different standby modes.[13] This publication presents results of a household survey conducted in 2000, which measured standby modes for 35 clothes dryers with an average age of 11 years. The daily time spent in each mode in this study averaged one quarter hour for ''drying,'' zero hours for ''delay start'' and ''active standby'' modes, and the remaining hours split 5 percent for ''end of program'' mode and 95 percent for off mode. The ''active standby mode'' of the study is equivalent to the ''inactive mode'' defined in section III.D.1 of this notice, and the ''end of program mode'' is equivalent to the ''cycle finished mode'' in section III.D.1. DOE has tentatively concluded from these results that clothes dryers spend little time in cycle finished mode and probably spend little time in delay start mode. The average age of the clothes dryers in the study suggests that most of these dryers had electromechanical rather than electronic controls (prevalent among dryers currently on the market), indicating that the dryers in the study would not likely have had inactive mode or delay start mode. Hence, DOE does not infer from those results that modern clothes dryers spend negligible time in inactive mode, and the findings are by themselves inconclusive regarding the time modern clothes dryers spend in delay start mode.

A different study on clothes washers provides some additional evidence suggesting a small number of hours associated with clothes dryer delay start mode.[14] This study monitored time clothes washers in Australia and New Zealand spent in different modes, and showed that the average amount of time spent in delay start mode per wash cycle was approximately 5 minutes. DOE believes that the results for clothes washers may be applicable for clothes dryers as well, because of the similarities between the control capabilities for both types of products and comparable consumer usage patterns when a clothing load is washed and dried.

Based on these two information sources, DOE has tentatively concluded that a typical modern clothes dryer spends a small amount of time in delay start mode. Using an estimated 5 minutes per cycle, the total annual amount of time spent in delay start mode using the representative 416 cycles per year is 34 hours. The remaining time not associated with active mode or delay start mode can be split as suggested by the Australian study: 5 percent allocated to cycle finished mode and 95 percent allocated to off or inactive mode.

Table III.1 presents a comparison of the annual energy use associated with all modes. The approximate range of wattages associated with the standby and off modes are based on the references cited previously in this section and on ''Clothes Dryers Background/Issues/Standby,'' presented by Robert Foster of Energy Efficiency Strategies at the $E_3$ White Goods Forum in Sydney, Australia, in February 2007.[15] Active mode annual energy use is calculated based on 416 cycles per year in a standard-size electric dryer with a minimum standard EF of 3.01. Per-cycle energy use for such a clothes dryer is calculated as 7 pounds (lbs) divided by 3.01 lbs per kilowatt-hour (kWh), which is equal to 2.33 kWh. The typical average power level during active mode is calculated as 967 kWh per year of annual energy use divided by 140 hours in active mode, which is equal to 6,907 W.

TABLE III.1—ESTIMATE OF ANNUAL ENERGY USE OF CLOTHES DRYER MODES

| Mode | Hours | Typical power (*W*) | Annual energy use (*kWh*) |
|---|---|---|---|
| Active | 140 | 6,907 | 967 |
| Delay Start | *34 | 3 | 0.1 |
| Cycle Finished | **429 | 3 | 1 |
| Off and Inactive | †8,157 | 0.5 to 3 | 4 to 24 |

*5 minutes per cycle × 416 cycles per year.
**5 percent of remaining time (0.05 × (8,760 · 140 · 34) = 429).
†95 percent of remaining time (0.95 × (8,760 · 140 · 34) = 8,157).

To determine the annual hours per mode for clothes dryers for which not all standby modes are possible, DOE estimated values based upon reallocating the hours for modes that are not present according to the ratios discussed previously (*i.e.*, that cycle finished mode, if present, would account for 5 percent of annual hours not allocated to active and delay start modes, and off/inactive modes would account for the remaining 95 percent). DOE's logic for this distribution of hours is as follows:

- If delay start is not possible, cycle finished mode would be 0.05 × (8,760 total hours · 140 active mode hours) = 431 hours. The remaining 8,189 hours would be allocated for off/inactive modes.
- If cycle finished mode is not possible, delay start mode, which is assumed to be a fixed value of 5 minutes per cycle for each of the 416 cycles per

[13] *Standby Product Profile—Clothes Dryers* (Report 2003/09). National Appliance and Equipment Energy Efficiency Committee (NAEEEC) of Australia (October 2003). Available at: *http://www.energyrating.gov.au/library/pubs/sb200309-dryers.pdf.*

[14] *''A Submission to NAEEEC on Mode Times for Use When Determining Standby Energy Consumption of Clothes Washers, Dishwashers, and Dryers,''* Australian Electrical and Electronic Manufacturers' Association (March 11, 2005), Appendix B.

[15] Available at *http://www.energyrating.gov.au/pubs/2007-whitegoods-foster4.pdf.*

year specified in the DOE test procedure, would account for 34 hours. Thus, off/inactive modes would be 8,760 total hours · 140 active mode hours · 34 delay start mode hours = 8,586 hours.

- If neither delay start nor cycle finished modes are possible, then off/inactive modes would simply be 8,760 total hours · 140 active mode hours = 8,620 hours.

Table III.2 summarizes the allocation of hours to different possible modes under each scenario.

TABLE III.2—ESTIMATE OF ANNUAL HOURS OF POSSIBLE CLOTHES DRYER MODES

| Mode | All modes possible | No delay start mode | No cycle finished mode | No delay start or cycle finished modes |
|---|---|---|---|---|
| Active | 140 | 140 | 140 | 140 |
| Delay Start * | 34 | 0 | 34 | 0 |
| Cycle Finished ** | 429 | 431 | 0 | 0 |
| Off and Inactive † | 8,157 | 8,189 | 8,586 | 8,620 |

* 5 minutes per cycle × 416 cycles per year.
** 5 percent of remaining time.
† 95 percent of remaining time.

Information to guide allocation of the hours for clothes dryers that have both inactive and off modes is currently unavailable. Two operational scenarios exist: (1) A clothes dryer reverts to an off mode after a specified time in inactive mode; or (2) a clothes dryer stays in inactive mode unless the user switches the appliance back to off mode. DOE does not have information regarding the percentage of clothes dryers being sold that fall into each of these categories. DOE welcomes comment and additional information on this point. Because of this limitation, for purposes of its analysis, DOE proposes to allocate half of the hours determined for off/inactive modes to each of the two modes.

In summary, DOE proposes to calculate clothes dryer energy use per cycle associated with standby and off modes by: (1) Calculating the product of wattage and allocated hours for all possible standby and off modes; (2) summing the results; (3) dividing the sum by 1,000 to convert from Wh to kWh; and (4) dividing by 416 cycles per year. The number of hours for off/inactive modes would be allocated entirely to either off mode or inactive mode, as appropriate, if only one of these modes is possible for the clothes dryer. If both modes are possible, the off/inactive mode hours would be divided evenly between the two.

DOE invites comments on this proposed methodology and associated factors, including accuracy, allocation of annual hours, and test burden. If, based on comments, DOE determines that this approach is unreasonable, DOE would consider the following alternative methodology.

The comparison of annual energy use of different clothes dryer modes shows that delay start and cycle finished modes represent a relatively small number of hours at low power consumption levels. For clothes dryers currently on the market, these levels are distinct from but comparable to those for off/inactive modes. Thus, DOE could adopt an approach that would be limited to specification of hours for only off and inactive modes when calculating energy use associated with standby and off modes. In that case, all of the non-active hours (8,620 hours total) would be allocated to the inactive and off modes. DOE invites comment on whether such an alternative would be representative of the standby and off mode power consumption of clothes dryers currently on the market.

2. Room Air Conditioners

DOE is not aware of reliable data for hours spent in different standby and off modes in room air conditioners. Therefore, DOE estimated relative magnitudes of energy use in standby and off modes in the following example, illustrated for a representative 8,000 Btu/hour (hr), 9 EER unit that has delay start, off-cycle, and inactive modes.

DOE is aware that a room air conditioner may be unplugged for a certain percentage of time, and, therefore, will not be in either standby mode or off mode. DOE does not have data regarding the amount of ''unplugged'' time for a typical room air conditioner. For the purposes of this analysis, DOE estimates that approximately half of room air conditioners are unplugged for half of the year. The ''unplugged'' time associated with these units is averaged over all units. Hence, the average number of plugged-in hours per year for a room air conditioner would be estimated as 8,760 total hours · (½ of units that are unplugged × 4,380 unplugged hours) = 6,570 hours.

The prime cooling season is estimated to last 90 days a year, which equals 2,160 hours. During this time, it is estimated that room air conditioners spend 750 hours in cooling mode, according to the current test procedure. In addition, DOE estimates that 10 percent of room air conditioners that have a delay start mode function will use this function for 10 hours a day during the cooling season. Averaged over all units with this functionality, this represents 90 days × 10 hr/day × 10 percent of units = 90 hours. Therefore, cooling mode hours plus delay start hours total 840 hours for units that incorporate the delay start function. The remaining cooling season hours in this example are 2,160 cooling season hours · 840 combined cooling mode and delay start mode hours = 1,320 hours. For this representative unit, DOE assumes that these remaining cooling season hours divide equally into: (1) Fan-only mode (an active mode in which the compressor shuts down when operating in constant-fan mode or user selection of fan-only operation); (2) off-cycle mode; and (3) inactive mode (and/or off mode for units that have such capability). One-third of 1,320 equals 440, so for this example, the number of off-cycle mode hours is 440, and the number of inactive and/or off mode hours during the cooling season is also 440.

The cooling season inactive and/or off mode hours are summed with the additional inactive and/or off mode hours when the unit is plugged in outside of the cooling season. These additional hours are 6,570 plugged-in hours · 2,160 cooling season hours = 4,410 hours. Hence, for this example, total inactive and/or off mode hours are 440 inactive and/or off mode hours during cooling season + 4,410 plugged-in hours outside of the cooling season = 4,850 hours. The hours for the relevant modes and estimates of power input and energy use for this example are summarized in Table III.3 below.

While the hours per mode presented in this illustration are estimates based on limited study data, DOE believes that energy patterns illustrated in this example are representative for most room air conditioners with delay start and off-cycle mode capability. The typical average power level during active mode is calculated as the 8,000 Btu/hr cooling capacity ÷ 9 Btu/hr/W EER = 889 W.

TABLE III.3—ESTIMATE OF ANNUAL ENERGY USE OF ROOM AIR CONDITIONER MODES FOR A REPRESENTATIVE UNIT WITH 8,000 BTU/HR CAPACITY AND 9 EER

| Mode | Hours | Typical power (*W*) | Annual energy use (*kWh*) |
|---|---|---|---|
| Active Cooling | 750 | 889 | 667 |
| Delay Start | 90 | 2 | 0.2 |
| Off-Cycle | 440 | 2 | 0.9 |
| Off and Inactive | 4,850 | 0.5 to 2 | 2.5 to 10 |

To determine the annual hours per mode for room air conditioners for which not all standby modes are possible, DOE estimated values based upon reallocating the hours for modes that are not present according to the ratios discussed previously (*i.e.*, that off-cycle mode, if present, would account for one-third of annual cooling season hours not allocated to active and delay start modes, and off/inactive modes would account for another one third of the annual cooling season hours not allocated to active and delay start modes plus the 4,410 plugged-in non-cooling season hours). DOE's logic for this distribution of hours is as follows:

- If delay start is not possible, off-cycle mode would equal ⅓ × (2,160 cooling season hours · 750 cooling mode hours) = 470 hours. Off/inactive modes would then account for 470 off-cycle mode hours + 4,410 plugged-in non-cooling season hours = 4,880 hours.
- If off-cycle mode is not possible, off/inactive modes would equal ½ × (2,160 cooling season hours · 750 cooling mode hours · 90 delay start mode hours) + 4,410 plugged-in non-cooling season hours = 5,070 hours.
- If neither delay start nor off-cycle modes are possible, then off/inactive modes would equal ½ × (2,160 cooling season hours · 750 cooling mode hours) + 4,410 plugged-in non-cooling season hours = 5,115 hours.

Table III.4 summarizes the allocation of hours to different possible modes under each scenario.

TABLE III.4—ESTIMATE OF ANNUAL ENERGY USE OF ROOM AIR CONDITIONER MODES

| Mode | All modes possible | No delay start mode | No off-cycle mode | No delay start or off-cycle modes |
|---|---|---|---|---|
| Active, Cooling | 750 | 750 | 750 | 750 |
| Active, Fan-Only** | 440 | 470 | 660 | 705 |
| Delay Start* | 90 | 0 | 90 | 0 |
| Off-Cycle** | 440 | 470 | 0 | 0 |
| Off and Inactive** | 4,850 | 4,880 | 5,070 | 5,115 |

*10% of units will use delay start for 10 hours/day during the 90-day cooling season. The 90-day cooling season represents 2,160 hours.
** (2,160 cooling season hours · 750 cooling mode hours · delay start mode hours) divided by the number of these three modes which are present (fan-only, off-cycle, and off/inactive). Off and inactive modes are treated as one, and also include all of the 4,410 plugged in hours outside of the cooling season.

DOE is unaware of any room air conditioners that incorporate both off and inactive modes. Typically, room air conditioners with remote control can be controlled whenever they are plugged in; hence, these units do not include an off mode. If a room air conditioner allows the user to switch off remote control operation, such a product would be capable of both inactive and off mode. For these units, DOE proposes that the plugged-in off/inactive hours be allocated equally to the inactive and off modes for such a product.

In summary, DOE proposes to calculate room air conditioner energy use associated with standby and off modes by: (1) Calculating the products of wattage and allocated hours for all possible standby and off modes; (2) summing the results; and (3) dividing the sum by 1,000 to convert from Wh to kWh. The number of allocated hours for off/inactive modes would be allocated entirely to either off mode or inactive mode, as appropriate, if only one of these modes is possible for the room air conditioner. If both modes are possible, the off/inactive mode hours would be divided evenly between the two.

DOE invites comments on this proposed methodology and associated factors, including accuracy, allocation of annual hours, and test burden. If, based on comments, DOE determines that this approach is unreasonable, DOE would consider the following alternative methodology.

Similar to clothes dryers, the comparison of annual energy use of different room air conditioner modes shows that delay start and off-cycle modes represent a relatively small number of hours at low power consumption levels. For room air conditioners currently on the market, these levels are distinct from but comparable to those for off/inactive modes. Thus, DOE could adopt an approach that would be limited to specification of hours for only off and inactive modes when calculating energy use associated with standby and off modes. In that case, all of the non-active hours (5,115 hours total) would be allocated to the inactive and off modes. DOE invites comment on whether such an alternative would be representative of the standby and off mode power consumption of room air conditioners currently on the market.

### *G. Measures of Energy Consumption*

The DOE test procedures for clothes dryers and room air conditioners currently provide for the calculation of

several measures of energy consumption. For clothes dryers, the test procedure incorporates various measures of per-cycle energy consumption, including total per-cycle electric dryer energy consumption, per-cycle gas dryer electrical energy consumption, per-cycle gas dryer gas energy consumption, per-cycle gas dryer continuously burning pilot light gas energy consumption, total per-cycle gas dryer gas energy consumption expressed in Btu, and total per-cycle gas dryer gas energy consumption expressed in kWh. 10 CFR part 430, subpart B, appendix D, sections 4.1–4.5. The test procedure also provides an EF, which is equal to the clothes load in pounds divided by either the total per-cycle electric dryer energy consumption or by the total per-cycle gas dryer energy consumption expressed in kWh. 10 CFR 430.23(d). For room air conditioners, the test procedure calculates annual energy consumption in kWh and an EER. 10 CFR 430.23(f).

Under 42 U.S.C. 6295(gg)(2)(A), EPCA directs that the ''[t]est procedures for all covered products shall be amended pursuant to section 323 to include standby mode and off mode energy consumption, taking into consideration the most current versions of Standards 62301 and 62087 of the International Electrotechnical Commission, with such energy consumption integrated 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 for and incorporate the standby mode 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.''

DOE explored whether the existing measures of energy consumption for clothes dryers and room air conditioners can be combined with standby mode and off mode energy use to form a single metric. DOE notes that certain test procedures combine measures of energy consumption and standby energy use to derive an overall ''energy efficiency measure'' (*e.g.*, gas kitchen ranges and ovens incorporate pilot gas consumption in EF, electric ovens include clock power in EF, and gas clothes dryers include pilot gas consumption). When the difference in energy use between the primary function of those products and the standby power is so large that the standby power has little impact on the overall measure of energy efficiency, as is the case for clothes dryers and room air conditioners (illustrated in section III.F), the combined measure of energy efficiency is a meaningful measure. Therefore, DOE is proposing a combined metric addressing active, standby, and off modes for clothes dryers and room air conditioners, as discussed below.

1. Clothes Dryers

DOE proposes to establish the following measures of energy consumption for clothes dryers that integrate energy use of standby and off modes with energy use of main functions of the products. ''Per-cycle integrated total energy consumption expressed in kWh'' will be defined as the sum of per-cycle standby and off mode energy consumption and either total per-cycle electric dryer energy consumption or total per-cycle gas dryer energy consumption expressed in kWh, depending on which type of clothes dryer is involved. ''Integrated energy factor'' (IEF) will be defined as the (clothes dryer test load weight in lb)/(per-cycle integrated total energy in kWh).

2. Room Air Conditioners

DOE proposes to establish the following measures of energy consumption for room air conditioners that integrate energy use of standby and off modes with energy use of main functions of the products. ''Integrated annual energy consumption'' will be defined as the sum of annual energy consumption and standby and off mode energy consumption. ''Integrated energy efficiency ratio'' (IEER) will be defined as (cooling capacity in Btu/hr × 750 hours average time in cooling mode) / (integrated annual energy consumption × 1,000 Wh per kWh).

*H. Correction of Text Describing Energy Factor Calculation for Clothes Dryers*

Specific references used in the current DOE test procedure regulation contain certain errors that today's proposal seeks to correct. In particular, the reference to sections 2.6.1 and 2.6.2 of 10 CFR part 430, subpart B, appendix D in the calculation of EF for clothes dryers found at section 430.23(d)(2) is incorrect and should refer instead to sections 2.7.1 and 2.7.2. Section 2.6 provides instructions for the test clothes to be used in energy testing of clothes dryers, whereas section 2.7 provides instructions on test loads. The EF of clothes dryers is measured in pounds of clothes per kWh. Since the EF calculation requires the weight of the test load, DOE proposes to correct these references in 10 CFR 430.23(d)(2).

*I. Correction of Text Referencing Room Air Conditioner Test Standard*

The room air conditioner test procedure currently references ASHRAE Standard 16–69, ''Method of Testing for Rating Room Air Conditioners.'' The text in 10 CFR part 430, subpart B, appendix F, section 1, however, incorrectly identifies ASHRAE as ''American Society of Heating, Refrigerating and Air Conditioning in Engineers.'' The actual name of the referenced organization is ''American Society of Heating, Refrigerating and Air-Conditioning Engineers.'' DOE proposes to correct this reference in 10 CFR part 430, subpart B, appendix F, section 1 (which is being redesignated as section 2 in the proposed amendments).

*J. Compliance With Other EPCA Requirements*

1. Test Burden

Section 323(b)(3) of 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)) For the reasons that follow, DOE has tentatively concluded that amending the relevant DOE test procedures to incorporate clauses regarding test conditions and methods found in IEC Standard 62301, along with the proposed modifications, would satisfy this requirement.

The proposed amendments to the DOE test procedure incorporate a test standard that is accepted internationally for measuring standby power in standby modes and off mode. Based on DOE's testing and analysis of IEC Standard 62301, DOE determined that the proposed amendments to the clothes dryer and room air conditioner test procedures would produce standby and off mode average power consumption measurements that are representative of an average use cycle, both when the measured power is stable and when the measured power is unstable (*i.e.*, when power varies by more than 5 percent during 5 minutes). Also, the test methods and equipment that the amendment would require for measuring standby power in these products are not substantially different from, or can be even less burdensome to implement than, the test methods and

equipment in the current DOE test procedures for measuring the products' energy consumption. Therefore, the proposed test procedures would not require manufacturers to make a major investment in test facilities and new equipment. Accordingly, DOE has tentatively concluded that the amended test procedures would produce test results that measure the standby/off mode power consumption of a covered product during a representative average use cycle, as well as total annual energy consumption, and that testing under the test procedures would not be unduly burdensome to conduct.

2. Potential Incorporation of IEC Standard 62087

Section 325(gg)(2)(A) of EPCA directs DOE to consider IEC Standard 62087 when amending test procedures to include standby mode and off mode power measurements (42 U.S.C. 6295(gg)(2)(A)). As discussed in section III.C of this notice, DOE reviewed IEC Standard 62087 ''Methods of measurement for the power consumption of audio, video, and related equipment'' (Second Edition 2008–09) and determined that it would not be applicable to measuring power consumption of electrical appliances such as clothes dryers and room air conditioners. Therefore, DOE has determined that referencing IEC Standard 62087 is not necessary for the proposed amendments to the test procedures that are the subject of this rulemaking.

3. Integration of Standby Mode and Off Mode Energy Consumption Into the Efficiency Metrics

Section 325(gg)(2)(A) requires that standby mode and off mode energy consumption be ''integrated into the overall energy efficiency, energy consumption, or other energy descriptor for each covered product'' unless the current test procedures already fully account for the standby mode and off mode energy consumption or if such an integrated test procedure is technically infeasible (42 U.S.C. 6295(gg)(2)(A)). For clothes dryers, DOE is proposing to incorporate the standby and off mode energy consumption into a ''per-cycle integrated total energy consumption expressed in kilowatt-hours'' and into an IEF, as discussed in section III.G of this notice. For room air conditioners, DOE is proposing to incorporate the standby and off mode energy consumption into a metric for ''integrated annual energy consumption'' and into an IEER, as discussed in section III.G.

Furthermore, EPCA provides that test procedure amendments adopted to comply with the new EPCA requirements for standby and off mode energy consumption will not determine compliance with previously established standards. (42 U.S.C. 6295(gg)(2)(C)) Pursuant to this provision, the test procedure amendments pertaining to standby mode and off mode energy consumption that DOE proposes to adopt in this rulemaking would not apply to, and would have no impact on, existing standards. In other words, existing energy standards for clothes dryers and room air conditioners, which are based on EF and EER, respectively, would not be altered by today's proposal. Instead, the test procedures' provisions for standby/off mode would be required to be used for demonstrating compliance with DOE's energy conservation standards upon the effective date of a subsequent standards rulemaking for clothes dryers and room air conditioners that account for standby mode and off mode power consumption. Thus, the proposed test procedure amendments comply with this EPCA requirement.

## IV. Procedural Requirements

### *A. Review Under Executive Order 12866*

Today's proposed regulatory action is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this proposed 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 an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the proposed 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://www.gc.doe.gov*).

DOE reviewed today's proposed rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. This proposed rule prescribes test procedures that will be used to test compliance with energy conservation standards for the products that are the subject of this rulemaking.

DOE has tentatively concluded that the proposed rule would not have a significant impact on either small or large manufacturers under the provisions of the Regulatory Flexibility Act. The proposed rule would amend DOE's test procedures by incorporating testing provisions to address standby mode and off mode energy consumption. The procedures involve measuring power input when the clothes dryer or room air conditioner is in standby and off modes during testing. These tests can be conducted in the same facilities used for the current energy testing of these products, but could also be conducted in separate facilities consisting of little more than a temperature-controlled space. The power meter required for these tests might require greater accuracy than the power meter used for current energy testing, but the investment required for a possible instrumentation upgrade would be modest. The duration of the standby and off mode testing is relatively short in comparison to the time required to conduct current energy testing. Thus, such requirements for equipment and time to conduct the additional tests would not be expected to impose a significant economic impact. Accordingly, DOE does not believe that the proposed rule would have a significant economic impact on entities subject to the applicable testing requirements.

Further, the Small Business Administration (SBA) considers an entity to be a small business if, together with its affiliates, it employs less than a threshold number of workers specified in 13 CFR part 121, which relies on size standards and codes established by the North American Industry Classification System (NAICS). The threshold number for NAICS classification for 335224, which applies to household laundry equipment manufacturers and includes clothes dryer manufacturers, is 1,000 employees. Additionally, two other NAICS classifications could apply to manufacturers involved in the production of room air conditioners, including 333415 (air conditioning and warm air heating equipment and commercial and industrial refrigeration equipment) and 335228 (other major household appliance manufacturing). The employee thresholds for

classification as a small entity under these NAICS codes are 750 and 500 employees, respectively.

Searches of the SBA Web site [16] to identify manufacturers within these NAICS codes that manufacture clothes dryers and/or room air conditioners identified only Staber Industries of Groveport, Ohio as a relevant manufacturer. Staber manufactures laundry appliances, including clothes dryers. Most of the manufacturers supplying clothes dryers and room air conditioners are large multinational corporations. Only one small entity could be identified that could be affected by this test procedure modification, out of approximately 15 manufacturers supplying clothes dryers in the United States, and, for the reasons stated above, the incremental impacts on that manufacturer arising from the new proposed test procedure requirements are expected to be small.

For these reasons, DOE tentatively concludes and certifies that the proposed rule 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 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*

This proposed rulemaking will impose no new information collection or recordkeeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

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

In this notice, DOE is proposing test procedure amendments that it expects would be used to develop and implement future energy conservation standards for clothes dryers and room air conditioners. 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 rule amends an existing rule without changing its environmental effect, and, therefore, is covered by the Categorical Exclusion in 10 CFR part 1021, subpart D, paragraph A5, which applies because this rule would establish revisions to existing test procedures that would not affect the amount, quality, or distribution of energy usage, and, therefore, would not result in any environmental impacts. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

*E. Review Under Executive Order 13132*

Executive Order 13132, ''Federalism,'' imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. 64 FR 43255 (August 10, 1999). 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 that it will follow in developing such regulations. 65 FR 13735. DOE examined this proposed rule and determined that it would not preempt State law and 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. Therefore, Executive Order 13132 requires no further action.

*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 specifies the following: (1) The preemptive effect, if any; (2) any effect on existing Federal law or regulation; (3) a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) the retroactive effect, if any; (5) definitions of key terms; and (6) 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 whether 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, this 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) (Pub. L. 104–4; 2 U.S.C. 1501 *et seq.*) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. 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 estimates of the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a),(b)) 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 such governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. (The policy is also available at *http://www.gc.doe.gov*). Today's proposed rule contains neither an intergovernmental mandate nor a mandate that may result in an 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

[16] A searchable database of certified small businesses is available online at: *http://dsbs.sba.gov/dsbs/search/dsp_dsbs.cfm*.

that may affect family well-being. Today's proposed 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 proposed 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 notice under 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 OIRA a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates 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 if the proposal is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's proposed regulatory action is not a significant regulatory action under Executive Order 12866. It has likewise not been designated as a significant energy action by the Administrator of OIRA. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy. 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; 42 U.S.C. 7101 *et seq.*), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977 (FEAA). (15 U.S.C. 788) Section 32 essentially provides in part that, where a proposed 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 proposed modifications to the test procedures addressed by this proposed action incorporate testing methods contained in the commercial standard, IEC Standard 62301. DOE has evaluated this standard and is unable to conclude whether it fully complies with the requirements of section 32(b) of the FEAA (*i.e.*, whether it was developed in a manner that fully provides for public participation, comment, and review.) DOE will consult with the Attorney General and the Chairman of the FTC about the impact on competition of using the methods contained in this standard, before prescribing a final rule.

## V. Public Participation

*A. Attendance at the Public Meeting*

The time, date, and location of the public meeting are listed in the **DATES** and **ADDRESSES** sections at the beginning of this NOPR. To attend the public meeting, please notify Ms. Brenda Edwards at (202) 586–2945. As explained in the **ADDRESSES** section, foreign nationals visiting DOE Headquarters are subject to advance security screening procedures.

*B. Procedure for Submitting Requests To Speak*

Any person who has an interest in today's 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 at the public meeting. Such persons may hand-deliver requests to speak to the address shown in the **ADDRESSES** section at the beginning of this notice between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Requests may also be sent by mail or e-mail to: Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121, or *Brenda.Edwards@ee.doe.gov*. Persons who wish to speak should include in their request a computer diskette or CD in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this rulemaking and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

DOE requests persons scheduled to make an oral presentation to submit an advance copy of their statements at least one week before the public meeting. DOE may permit persons who cannot supply an advance copy of their statement to participate, if those persons have made advance alternative arrangements with the Building Technologies Program. Requests 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 use 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 5 U.S.C. 553 and section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to 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 time limits determined by DOE), before 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 each specific topic, DOE will permit participants to clarify their statements briefly and to comment on statements made by others.

Participants should be prepared to answer DOE's and other participants' questions. DOE representatives may also ask participants about 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.

DOE will make the entire record of this proposed rulemaking, including the transcript from the public meeting, available for inspection at the U.S. Department of Energy, 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. Copies of the transcript are available for purchase from the transcribing reporter.

*D. Submission of Comments*

DOE will accept comments, data, and information regarding the proposed rule before or after the public meeting, but 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 original paper copy. 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: (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.

*E. Issues on Which DOE Seeks Comment*

DOE is particularly interested in receiving comments and views of interested parties on the following issues:

1. *Incorporation of IEC Standard 62301*. DOE invites comment on the adequacy of IEC Standard 62301 to measure standby power for clothes dryers and room air conditioners in general, and on the suitability of incorporating into DOE regulations the specific provisions described in section III of this notice.

2. *''Standby mode'' definitions*. DOE invites comment on the differences in definition of ''standby mode'' provided by EPCA and the definition provided in the current version of IEC Standard 62301.

3. *Clothes dryer standby modes*. DOE invites comment on the establishment of the following specific standby modes for clothes dryers: Inactive mode, delay start mode, and cycle finished mode. DOE further invites comment on the definitions proposed for these modes and on the question of whether there are any modes consistent with the ''active mode,'' ''standby mode,'' or ''off mode'' definitions under EPCA that have not been identified and that can represent significant energy use.

4. *Room air conditioner standby modes*. DOE invites comment on the establishment of the following specific standby modes for room air conditioners: Inactive mode, delay start mode, and off-cycle mode. DOE further invites comment on the definitions proposed for these modes and on the question of whether there are any modes consistent with the ''active mode,'' ''standby mode,'' or ''off mode'' definitions under EPCA that have not been identified and that can represent significant energy use.

5. *Delay start test procedure*. DOE seeks comment on the proposed clarification to IEC Standard 62301, in which DOE would specify in the clothes dryer and room air conditioner test procedures, the set delay start time, stabilization period, and test duration for delay start mode power measurements. (*See* section III.E of this notice.)

6. *Test room conditions*. DOE requests comment on the proposed room ambient temperature range for standby mode and off mode power measurements for room air conditioners and clothes dryers. (*See* section III.E of this notice.)

7. *Energy use calculation for standby mode and off mode for clothes dryers*. DOE invites comment on the approach for determining total energy use for standby mode and off mode for clothes dryers, including its accuracy and test burden. Given that individual units may be capable of different combinations of standby modes, DOE also invites comment and requests data on the estimates for annual hours associated with each mode, including the 140 hours specified by the current test procedure for active mode (drying).

8. *Energy use calculation for standby mode and off mode for room air conditioners*. DOE invites comment on the approach for determining total energy use for standby mode and off mode for room air conditioners, including its accuracy and test burden. Given that individual units may be capable of different combinations of standby modes, DOE also invites comment and requests data on the estimates for annual hours associated with each mode, including the estimate of ''unplugged'' time.

9. *New integrated measures of energy consumption and energy efficiency*. DOE invites comment on the proposed plan to establish new integrated measures of energy consumption and energy efficiency for clothes dryers and room air conditioners: ''Per-cycle integrated total energy consumption expressed in kilowatt-hours'' and ''integrated energy factor'' for clothes dryers; and ''integrated annual energy consumption'' and ''integrated energy efficiency ratio'' for room air conditioners.

## 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, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on December 1, 2008.

**Steven G. Chalk,**

*Deputy Assistant Secretary for Renewable Energy, Office of Technology Development, 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. Section 430.22 is amended by adding paragraphs (b)(1)9, (b)(4)3, and (b)(5)10 to read as follows:

### § 430.22 Reference Sources.

* * * * *

(b) * * *

(1) * * *

9. American National Standard Z234.1–1972, ''Room Air Conditioners,'' Sections 4, 5, 6.1, and 6.5.

* * * * *

(4) * * *

3. IEC 62301, ''Household electrical appliances—Measurement of standby power,'' Section 4, General conditions for measurements, Paragraph 4.2, ''Test room,'' Paragraph 4.3, ''Power supply,'' Paragraph 4.4, ''Supply voltage waveform,'' and Paragraph 4.5, ''Power measurement accuracy;'' and Section 5, Measurements, Paragraph 5.1, ''General,'' Note 1, and Paragraph 5.3, ''Procedure'' (2005–06).

(5) * * *

10. American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard 16–69, ''Method of Testing for Rating Room Air Conditioners.''

* * * * *

3. Part 430.23 is amended by:

a. Revising paragraph (d)(2).

b. Redesignating existing paragraph (d)(3) as (d)(4) and adding new paragraph (d)(3).

c. Revising paragraphs (f)(1), (f)(2), and (f)(3).

d. Redesignating existing paragraph (f)(4) as (f)(6) and adding new paragraphs (f)(4) and (f)(5).

The revisions and additions read as follows:

### § 430.23 Test procedures for the measurement of energy and water consumption.

* * * * *

(d) *Clothes dryers.*

* * * * *

(2) The energy factor, expressed in pounds of clothes per kilowatt-hour, for clothes dryers shall be either the quotient of a 3-pound bone-dry test load for compact dryers, as described in 2.7.1 of appendix D to this subpart, or the quotient of a 7-pound bone-dry test load for standard dryers, as described in 2.7.2 of appendix D to this subpart, as applicable, divided by the clothes dryer energy consumption per cycle, as determined according to 4.1 for electric clothes dryers and 4.6 for gas clothes dryers of appendix D to this subpart, the resulting quotient then being rounded off to the nearest hundredth (.01).

(3) The integrated energy factor, expressed in pounds of clothes per kilowatt-hour, for clothes dryers shall be either the quotient of a 3-pound bone-dry test load for compact dryers, as described in 2.7.1 of appendix D to this subpart, or the quotient of a 7-pound bone-dry test load for standard dryers, as described in 2.7.2 of appendix D to this subpart, as applicable, divided by the clothes dryer integrated energy consumption per cycle, as determined according to 4.8 of appendix D to this subpart, the resulting quotient then being rounded off to the nearest hundredth (.01).

* * * * *

(f) *Room air conditioners.* (1) The estimated annual operating cost for room air conditioners, expressed in dollars per year, shall be determined by multiplying the following three factors:

(i) Electrical input power in kilowatts as determined in accordance with 5.2 of appendix F to this subpart;

(ii) The representative average-use cycle of 750 hours of compressor operation per year; and

(iii) A representative average unit cost of electrical energy in dollars per kilowatt-hour as provided by the Secretary, the resulting product then being rounded off to the nearest dollar per year.

(2) The energy efficiency ratio for room air conditioners, expressed in Btu's per watt-hour, shall be the quotient of:

(i) The cooling capacity in Btu's per hour as determined in accordance with 5.1 of appendix F to this subpart divided by:

(ii) The electrical input power in watts as determined in accordance with 5.2 of appendix F to this subpart, the resulting quotient then being rounded off to the nearest 0.1 Btu per watt-hour.

(3) The average annual energy consumption for room air conditioners, expressed in kilowatt-hours per year, shall be determined by multiplying together the following two factors:

(i) Electrical input power in kilowatts as determined in accordance with 5.2 of appendix F to this subpart; and

(ii) The representative average-use cycle of 750 hours of compressor operation per year, the resulting product then being rounded off to the nearest kilowatt-hour per year.

(4) The integrated annual energy consumption for room air conditioners, expressed in kilowatt-hours per year, shall be the sum of:

(i) The average annual energy consumption as determined in accordance with paragraph (f)(3) of this section; and

(ii) The standby mode and off mode energy consumption, as determined in accordance with 5.3 of appendix F to this subpart, the resulting sum then being rounded off to the nearest kilowatt-hour per year.

(5) The integrated energy efficiency ratio for room air conditioners, expressed in Btu's per watt-hour, shall be the quotient of:

(i) The cooling capacity in Btu's per hour as determined in accordance with 5.1 of appendix F to this subpart multiplied by the representative average-use cycle of 750 hours of compressor operation per year, divided by

(ii) The integrated annual energy consumption as determined in accordance with paragraph (f)(4) of this section multiplied by a conversion factor of 1,000 to convert kilowatt-hours to watt-hours, the resulting quotient then being rounded off to the nearest 0.1 Btu per watt-hour.

* * * * *

### Appendix D—[Amended]

4. Appendix D to subpart B of part 430 is amended:

a. By adding introductory text;

b. By revising section 1. Definitions;

c. In section 2. Testing Conditions, by:

1. Revising section 2.2;

2. Adding new sections 2.2.1 and 2.2.2;

3. Adding new section 2.3.1.1;

4. Adding new section 2.4.7;

5. Revising section 2.6.3(4);

d. In section 3. Test Methods and Measurements, by:

1. Revising section 3.5;

2. Adding new sections 3.6, 3.6.1, through 3.6.4;

e. In section 4, Calculation of Derived Results From Test Measurements, by:

1. Revising section 4.1;

2. Adding new sections 4.7 and 4.8.

The additions and revisions read as follows:

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

The procedures and calculations in sections 3.6, 3.6.1 through 3.6.4, 4.7, and 4.8 of this appendix D need not be performed to determine compliance with energy conservation standards for clothes dryers established prior to [EFFECTIVE DATE OF FINAL TEST PROCEDURE RULE].

*1. Definitions*

1.1 ''*Active mode*'' means a mode in which the clothes dryer is performing the main function of tumbling the clothing with or without heated or unheated forced air circulation to remove moisture from and/or remove or prevent wrinkling of the clothing.

1.2 ''*AHAM*'' means the Association of Home Appliance Manufacturers.

1.3 ''*Automatic termination control*'' means a dryer control system with a sensor which monitors either the dryer load temperature or its moisture content and with a controller which automatically terminates the drying process. A mark or detent which indicates a preferred automatic control setting must be present if the dryer is to be classified as having an ''automatic termination control.'' A mark is a visible single control setting on one or more dryer controls.

1.4 ''*Bone dry*'' means a condition of a load of test clothes which has been dried in a dryer at maximum temperature for a minimum of 10 minutes, removed and weighed before cool down, and then dried again for 10-minute periods until the final weight change of the load is 1 percent or less.

1.5 ''*Compact*'' or ''*compact size*'' means a clothes dryer with a drum capacity of less than 4.4 cubic feet.

1.6 ''*Cool down*'' means that portion of the clothes drying cycle when the added gas or electric heat is terminated and the clothes continue to tumble and dry within the drum.

1.7 ''*Cycle*'' means a sequence of operation of a clothes dryer which performs a clothes drying operation, and may include variations or combinations of the functions of heating, tumbling and drying.

1.8 ''*Cycle finished mode*'' means a standby mode that provides continuous status display following operation in active mode.

1.9 ''*Delay start mode*'' means a standby mode that facilitates the activation of active mode by a timer.

1.10 ''*Drum capacity*'' means the volume of the drying drum in cubic feet.

1.11 ''*HLD–1*'' means the test standard promulgated by AHAM and titled ''AHAM Performance Evaluation Procedure for Household Tumble Type Clothes Dryers'', June 1974, and designated as HLD–1.

1.12 ''*HLD–2EC*'' means the test standard promulgated by AHAM and titled ''Test Method for Measuring Energy Consumption of Household Tumble Type Clothes Dryers,'' December 1975, and designated as HLD–2EC.

1.13 ''*IEC 62301*'' means the test standard published by the International Electrotechnical Commission, titled ''Household electrical appliances—Measurement of standby power,'' Publication 62301 (First Edition, 2005–06) (incorporated by reference at 10 CFR 430.22).

1.14 ''*Inactive mode*'' means a standby mode other than delay start mode or cycle finished mode that facilitates the activation of active mode by remote switch (including remote control), internal sensor, or timer, or that provides continuous status display.

1.15 ''*Moisture content*'' means the ratio of the weight of water contained by the test load to the bone-dry weight of the test load, expressed as a percent.

1.16 ''*Moisture sensing control*'' means a system which utilizes a moisture sensing element within the dryer drum that monitors the amount of moisture in the clothes and automatically terminates the dryer cycle.

1.17 ''*Off mode*'' means a mode in which the clothes dryer is not performing any active or standby function.

1.18 ''*Standard size*'' means a clothes dryer with a drum capacity of 4.4 cubic feet or greater.

1.19 ''*Standby mode*'' means the condition in which a clothes dryer is connected to a main power source and offers one or more of the following user-oriented or protective functions:

(1) To facilitate the activation or deactivation of other functions (including active mode) by remote switch (including remote control), internal sensor, or timer;

(2) Continuous functions, including information or status displays (including clocks) or sensor-based functions.

1.20 ''*Temperature sensing control*'' means a system which monitors dryer exhaust air temperature and automatically terminates the dryer cycle.

*2. Testing Conditions*

* * * * *

2.2 *Ambient temperature and humidity.*

2.2.1 For drying testing, maintain the room ambient air temperature at 75 ± 3°F and the room relative humidity at 50 ± 10 percent relative humidity.

2.2.2 For standby and off mode testing, maintain room ambient air temperature conditions as specified in Section 4, Paragraph 4.2 of IEC 62301.

* * * * *

2.3.1.1 *Supply voltage waveform.* For the clothes dryer standby mode and off mode testing, maintain the electrical supply voltage waveform indicated in Section 4, Paragraph 4.4 of IEC 62301.

* * * * *

2.4.7 *Standby mode and off mode watt meter.* The watt meter used to measure standby mode and off mode power consumption of the clothes dryer shall have the resolution specified in Section 4, Paragraph 4.5 of IEC 62301. The watt meter shall also be able to record a ''true'' average power as specified in Section 5, Paragraph 5.3.2(a) of IEC 62301.

* * * * *

2.6.3 *Test Cloth Preconditioning*

* * * * *

(4) Bone dry the load as prescribed in Section 1.4 and weigh the load.

* * * * *

*3. Test Procedures and Measurements*

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3.5 *Test for automatic termination field use factor credits.* Credit for automatic termination can be claimed for those dryers that meet the requirements for either temperature sensing control, 1.20, or moisture sensing control, 1.16, and have the appropriate mark or detent feed defined in 1.3.

3.6 *Standby mode and off mode power.* Establish the testing conditions set forth in Section 2, ''Testing Conditions,'' of this appendix, omitting the requirement to disconnect all console light or other lighting systems on the clothes dryer that do not consume more than 10 watts during the clothes dryer test cycle in Section 2.1. 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, wait until the clothes dryer passes into the lower power state before starting the measurement, as discussed in Section 5, Paragraph 5.1, note 1 of IEC 62301. Follow the test procedure specified in Section 5, Paragraph 5.3 of IEC 62301 for testing in each possible mode as described in Sections 3.61 through 3.64. 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.

3.6.1 If a clothes dryer has an inactive mode, as defined in Section 1.14, measure and record the average inactive mode power of the clothes dryer, $P_{IA}$, in watts.

3.6.2 If a clothes dryer has an off mode, as defined in Section 1.17, measure and record the average off mode power of the clothes dryer, $P_{OFF}$, in watts.

3.6.3 If a clothes dryer has a delay start mode, as defined in section 1.9, test it in this mode by setting it to a delay start time of 5 hours, allowing at least 5 minutes for the power to stabilize, and then measure and record the average delay start mode power of the clothes dryer, $P_{DS}$, in watts, for the following 60 minutes.

3.6.4 If a clothes dryer has a cycle finished mode, as defined in Section 1.8, test it in this mode after termination of a drying cycle that does not include operation of the drum or blower after the drying cycle is completed. Measure and record the average cycle finished mode power of the clothes dryer, $P_{CF}$, in watts.

*4. Calculation of Derived Results From Test Measurements*

4.1 *Total per-cycle electric dryer energy consumption.* Calculate the total electric dryer energy consumption per cycle, $E_{ce}$, expressed in kilowatt-hours per cycle and defined as:

$$E_{ce} = [66/(W_w \cdot W_d)] \times E_t \times FU,$$

Where:

$E_t$ = the energy recorded in 3.4.5.

66 = an experimentally established value for the percent reduction in the moisture content of the test load during a laboratory test cycle expressed as a percent.

FU = Field use factor.

= 1.18 for time termination control systems.

= 1.04 for automatic control systems which meet the requirements of the definitions

for automatic termination controls in 1.3, 1.16, and 1.20.

$W_w$ = the moisture content of the wet test load as recorded in 3.4.2.

$W_d$ = the moisture content of the dry test load as recorded in 3.4.3.

* * * * *

4.7 *Per-cycle standby mode and off mode energy consumption.* Calculate the dryer combined standby mode and off mode energy consumption per cycle, $E_{TSO}$, expressed in kWh per cycle and defined as:

$E_{TSO} = [(P_{IA} \times S_{IA}) + (P_{OFF} \times S_{OFF}) + (P_{DS} \times S_{DS}) + (P_{CF} \times S_{CF})] \times K / 416$

Where:

$P_{IA}$ = dryer inactive mode power, in watts, as measured in section 3.6.1.

$P_{OFF}$ = dryer off mode power, in watts, as measured in section 3.6.2.

$P_{DS}$ = dryer delay start mode power, in watts, as measured in section 3.6.3.

$P_{CF}$ = dryer cycle finished mode power, in watts, as measured in section 3.6.4.

If the clothes dryer has both inactive mode and off mode, $S_{IA}$ and $S_{OFF}$ both equal $S_{TOT}/2$, where $S_{TOT}$ is the total inactive and off mode annual hours, determined from the following table;

If the clothes dryer has an inactive mode but no off mode, the inactive mode annual hours, $S_{IA}$, is equal to $S_{TOT}$ and the off mode annual hours, $S_{OFF}$, is equal to 0;

If the clothes dryer has an off mode but no inactive mode, $S_{IA}$ is equal to 0 and $S_{OFF}$ is equal to $S_{TOT}$;

$S_{DS}$ = dryer delay start mode annual hours, as determined from the following table;

$S_{CF}$ = dryer cycle finished mode annual hours, as determined from the following table;

K = 0.001 kWh/Wh conversion factor for watt-hours to kilowatt-hours; and

416 = representative average number of clothes dryer cycles in a year.

| Annual hours | Clothes dryer standby modes present | | | |
|---|---|---|---|---|
| | Delay start and cycle finished modes | No delay start mode | No cycle finished mode | No delay start or cycle finished modes |
| $S_{DS}$ | 34 | 0 | 34 | 0 |
| $S_{CF}$ | 429 | 431 | 0 | 0 |
| $S_{TOT}$ | 8,157 | 8,189 | 8,586 | 8,620 |

4.8 *Per-cycle integrated total energy consumption expressed in kilowatt-hours.* Calculate the per-cycle integrated total energy consumption, ECI, expressed in kilowatt-hours per cycle and defined for an electric clothes dryer as:

$E_{CI} = E_{ce} + E_{TSO}$,

Where:

$E_{ce}$ = the energy recorded in 4.1, and

$E_{TSO}$ = the energy recorded in 4.7,

and for a gas clothes dryer as:

$E_{CI} = E_{cg} + E_{TSO}$,

Where:

$E_{cg}$ = the energy recorded in 4.6, and

$E_{TSO}$ = the energy recorded in 4.7.

* * * * *

## Appendix F—[Amended]

5. Appendix F to subpart B of part 430 is amended by:

a. Adding introductory text;

b. Redesignating sections 1 through 4 as 2 through 5;

c. Adding new sections 1 and 1.1 through 1.7;

d. Revising newly redesignated section 2;

e. Revising newly redesignated section 3;

f. Revising newly redesignated section 4; and

g. Adding new section 5.3.

The additions and revisions read as follows:

## Appendix F to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Room Air Conditioners

The procedures and calculations in sections 4.2, 4.2.1 through 4.2.4, and 5.3 of this appendix F need not be performed to determine compliance with energy conservation standards for room air conditioners established prior to [EFFECTIVE DATE OF FINAL TEST PROCEDURE RULE].

*1. Definitions*

1.1 ''*Active mode*'' means a mode in which the room air conditioner is performing the main function of cooling or heating the conditioned space, or circulating air through activation of its fan or blower, with or without energizing active air-cleaning components or devices such as ultraviolet (UV) radiation, electrostatic filters, ozone generators, or other air-cleaning devices.

1.2 ''*Delay start mode*'' means a standby mode in which activation of an active mode is facilitated by a timer.

1.3 ''*IEC 62301*'' means the test standard published by the International Electrotechnical Commission, titled ''Household electrical appliances—Measurement of standby power,'' Publication 62301 (First Edition 2005–06) (incorporated by reference at 10 CFR 430.22).

1.4 ''*Inactive mode*'' means a standby mode other than delay start mode or off-cycle mode that facilitates the activation of active mode by remote switch (including remote control) or internal sensor or which provides continuous status display.

1.5 ''*Off mode*'' means a mode in which a room air conditioner is not performing any active or standby function.

1.6 ''*Off-cycle mode*'' means a standby mode in which the room air conditioner:

(1) Has cycled off its main function by thermostat or temperature sensor;

(2) Does not have its fan or blower operating; and

(3) Will reactivate the main function according to the thermostat or temperature sensor signal.

1.7 ''*Standby mode*'' means the condition in which a room air conditioner is connected to the main power source and offers one or more of the following user-oriented or protective functions:

(1) To facilitate the activation or deactivation of other functions (including active mode) by remote switch (including remote control), internal sensor, or timer; and/or

(2) Continuous functions, including information or status displays (including clocks) or sensor-based functions.

*2. Test Methods*

2.1 *Cooling mode.* The test method for testing room air conditioners in cooling mode shall consist of application of the methods and conditions in American National Standard (ANS) Z234.1–1972, ''Room Air Conditioners,'' Sections 4, 5, 6.1, and 6.5, and in American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 16–69, ''Method of Testing for Rating Room Air Conditioners.''

2.2 *Standby and off modes.* The method for testing room air conditioners in standby and off modes shall consist of application of the methods and conditions in IEC 62301, as modified by the requirements of this standard. The testing may be conducted in test facilities used for testing cooling mode. If testing is not conducted in such a facility, the test facility shall comply with IEC 62301 Section 4.2.

*3. Test Conditions*

3.1 *Cooling mode.* Establish the test conditions described in Sections 4 and 5 of ANS Z234.1–1972 and in accordance with ASHRAE Standard 16–69.

3.2 *Standby and off modes.*

3.2.1 *Test room conditions.* If the standby and off mode testing is conducted in a facility that is also used for testing cooling mode, or in a similar facility with separate room side and outdoor side compartments, maintain both the room side and outdoor side compartment temperatures at 74 ± 2 °F. If the unit is equipped with an outdoor air

ventilation damper, close this damper during testing. Requirements for maintaining temperature levels in the controlled-temperature air space outside the test compartments of a balanced ambient test chamber, as described in ASHRAE Standard 16–69, are waived for all standby and off mode testing. If the standby and off mode testing is conducted in a facility without separate compartments, maintain the ambient temperature at 74 ± 2 °F for testing all modes. Air velocities near the room air conditioner shall be no more than 100 feet per minute. The ambient air temperature variation from minimum to maximum shall be no more than 3 °F at locations within 12 inches of all sides of the room air conditioner at elevations from the bottom edge to the top edge of the air conditioner.

3.2.2 *Power supply.* Maintain power supply conditions specified in section 4.3 of IEC 62301. Use room air conditioner nameplate voltage and frequency as the basis for power supply conditions. Maintain power supply voltage waveform according to the requirements of section 4.4 of IEC 62301.

3.2.3 *Watt meter.* The watt meter used to measure standby mode and off mode power consumption of the room air conditioner shall have the resolution specified in Section 4, Paragraph 4.5 of IEC 62301. The watt meter shall also be able to record a ''true'' average power specified in Section 5, Paragraph 5.3.2(a) of IEC 62301.

3.2.4 Install the room air conditioner in the test facility either as required by ASHRAE Standard 16–69, if standby and off mode testing is conducted in a facility that is also used for testing the cooling mode, or, if standby and off mode testing is conducted in a facility without separate compartments, place the room air conditioner in the facility with a minimum of 2 feet of clearance to any walls or obstructions.

*4. Measurements.*

4.1 *Cooling mode.* Measure the quantities delineated in Section 5 of ANS Z234.1–1972.

4.2 *Standby and off modes.* Establish the testing conditions set forth in Section 3.2. For room air conditioners that drop from a higher power state to a lower power state as discussed in Section 5, Paragraph 5.1, note 1 of IEC 62301, allow sufficient time for the room air conditioner to reach the lower power state before proceeding with the test measurement. Follow the test procedure specified in Section 5, Paragraph 5.3 of IEC 62301. 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 in Paragraph 5.3.2(a). For testing all standby and off modes for which a control setpoint or thermostat can be adjusted for the room air conditioner, adjust the setpoint or thermostat to 79 °F.

4.2.1 If a room air conditioner has an inactive mode, as defined in Section 1.5, measure and record the average inactive mode power of the room air conditioner, $P_{IA}$, in watts.

4.2.2 If a room air conditioner has an off mode, as defined in Section 1.6, measure and record the average off mode power of the room air conditioner, $P_{OFF}$, in watts.

4.2.3 If a room air conditioner has a delay start mode, as defined in section 1.3, test it in this mode by setting it to a delay start time of 5 hours, allowing at least 5 minutes for the power input to stabilize, and then measure and record the average delay start mode power of the room air conditioner, $P_{DS}$, in watts, for the following 60 minutes.

4.2.4 If a room air conditioner has an off-cycle mode, as defined in Section 1.7, measure and record the average off-cycle mode power of the room air conditioner, $P_{CF}$, in watts.

*5. Calculations.*

* * * * *

5.3 *Standby mode and off mode annual energy consumption.* Calculate the standby mode and off mode annual energy consumption for room air conditioners, $E_{TSO}$, expressed in kilowatt-hours per year, according to the following:

$E_{TSO} = [(P_{IA} \times S_{IA}) + (P_{OFF} \times S_{OFF}) + (P_{DS} \times S_{DS}) + (P_{OC} \times S_{OC})] \times K$

Where:

$P_{IA}$ = room air conditioner inactive mode power, in watts, as measured in section 4.2.1

$P_{OFF}$ = room air conditioner off mode power, in watts, as measured in section 4.2.2.

$P_{DS}$ = room air conditioner delay start mode power, in watts, as measured in section 4.2.3.

$P_{OC}$ = room air conditioner off-cycle mode power, in watts, as measured in section 4.2.4.

If the room air conditioner has both inactive mode and off mode, $S_{IA}$ and $S_{OFF}$ both equal $S_{TOT}/2$, where $S_{TOT}$ is the total inactive and off mode annual hours, determined from the following table;

If the room air conditioner has an inactive mode but no off mode, the inactive mode annual hours, $S_{IA}$, is equal to $S_{TOT}$ and the off mode annual hours, $S_{OFF}$, is equal to 0;

If the room air conditioner has an off mode but no inactive mode, $S_{IA}$ is equal to 0 and $S_{OFF}$ is equal to $S_{TOT}$;

$S_{DS}$ = room air conditioner delay start mode annual hours, as determined from the following table;

$S_{OC}$ = room air conditioner off-cycle mode annual hours, as determined from the following table; and

K = 0.001 kWh/Wh conversion factor for watt-hours to kilowatt-hours.

| Annual hours | Room air conditioner standby modes present | | | |
|---|---|---|---|---|
| | Delay start and off-cycle modes | No delay start mode | No off-cycle mode | No delay start or off-cycle mode |
| $S_{DS}$ | 90 | 0 | 90 | 0 |
| $S_{OC}$ | 440 | 470 | 0 | 0 |
| $S_{TOT}$ | 4,850 | 4,880 | 5,070 | 5,115 |

[FR Doc. E8–28952 Filed 12–8–08; 8:45 am]

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## DEPARTMENT OF ENERGY

## 10 CFR Part 1004

**RIN 1901–AA32**

## Revision of Department of Energy's Freedom of Information Act Regulations

**AGENCY:** Office of FOIA and Privacy Act, Office of Information Resources, Department of Energy.

**ACTION:** Notice of proposed rulemaking and opportunity for comment.

**SUMMARY:** The Department of Energy (DOE) publishes a proposed rule to amend the existing regulations at Part 1004 that establish procedures by which records may be requested from all DOE offices pursuant to the Freedom of Information Act (FOIA). This proposed rule would streamline DOE's procedures for determining the releasability of information and update the fee requirements for the reproduction of documents.

This proposed rule would remove the so-called ''extra balancing test'' in section 1004.1 which states: ''To the extent permitted by other laws, the DOE will make records available which it is authorized to withhold under 5 U.S.C. 552 whenever it determines that such disclosure is in the public interest.'' This sentence imposes an additional burden on DOE to reconsider a determination to legally withhold information in accordance with 5 U.S.C. 552.

In addition, this proposed rule would amend section 1004.9(a)(4) to raise the per page rate for paper copy reproductions and microform to paper copies to the rate of 20 cents per page.

Additional administrative changes which do not require notice and comment will be promulgated in the