

the meeting by sending them to SACAH.Management@aphis.usda.gov.

This notice of the meeting agenda is given pursuant to section 10 of the Federal Advisory Committee Act (5 U.S.C. App. 2).

Done in Washington, DC, this 5th day of October 2011.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2011-26354 Filed 10-11-11; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket Number EERE-2011-BT-TP-0042]

RIN 1904-AC53

Energy Efficiency Program: Test Procedures for Residential Water Heaters, Direct Heating Equipment, and Pool Heaters

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

ACTION: Request for information.

SUMMARY: Through this Request for Information (RFI), the U.S. Department of Energy (DOE) is initiating a rulemaking and data collection process to consider amendments to DOE's test procedures for residential water heaters, direct heating equipment, and pool heaters. This rulemaking is intended to fulfill DOE's statutory obligation to review its test procedures for covered products at least once every seven years. To inform interested parties and to facilitate the process, DOE has gathered data and has identified several issues that might warrant modifications to the current applicable test procedures, including topics on which DOE is particularly interested in receiving comment. In overview, the issues outlined in this document mainly concern the scope, draw patterns, and test conditions for residential water heaters, possible clarifications and improvement of the direct heating equipment test procedures as applied to vented hearth heaters, and coverage of electric pool heaters. Additionally, this RFI briefly discusses and seeks input on certain potential changes to the test procedures for these products that DOE anticipates may be included in a subsequent notice of proposed rulemaking (NPR). DOE welcomes written comments from the public on any subject related to the test procedures for residential heating

products (including topics not specifically raised in this RFI).

DATES: Written comments and information are requested on or before November 28, 2011.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE-2011-BT-TP-0042 and/or RIN 1904-AC53, by any of the following methods:

- *E-mail:* HeatingProducts-2011-TP-0042@ee.doe.gov. Include EERE-2011-BT-TP-0042 and/or RIN 1904-AC53 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

- *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121. *Telephone:* (202) 586-2945. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza, SW., 6th Floor, Washington, DC 20024. *Telephone:* (202) 586-2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

All submissions received must include the agency name and docket number and/or RIN for this rulemaking. No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on the rulemaking process, see section III of this document (Public Participation).

Docket: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information may be sent to Mr. Mohammed Khan, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, Mailstop EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121. *Telephone:* (202) 586-7892. E-mail: Mohammed.Khan@ee.doe.gov.

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

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I. Authority and Background

Title III, Part B¹ of the Energy Policy and Conservation Act of 1975 ("EPCA" or "the Act"), Public Law 94-163 (42 U.S.C. 6291-6309, as codified) sets forth a variety of provisions designed to improve energy efficiency and establishes the Energy Conservation Program for Consumer Products Other Than Automobiles.² These include residential water heaters, direct heating equipment, and pool heaters (or collectively, "heating products"), the subject of today's notice. (42 U.S.C. 6292(a)(4),(9), and (11))

Under EPCA, this program generally consists of four parts: (1) Testing; (2) labeling; (3) establishing Federal energy conservation standards; and (4) certification and enforcement procedures. The testing requirements consist of test procedures that

¹ For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

² All references to EPCA in this document refer to the statute as amended through the Energy Independence and Security Act of 2007, Public Law 110-140 (Dec. 19, 2007).

manufacturers of covered products must use as both the basis for certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA, and for making representations about the efficiency of those products. (42 U.S.C. 6293(c); 42 U.S.C. 6295(s)) Similarly, DOE must use these test requirements to determine whether the products comply with any relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA provides, in relevant part, that any test procedures prescribed or amended under this section must be reasonably designed to produce test results 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 must not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

In addition, if DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6293(b)(2)) Finally, in any rulemaking to amend a test procedure, DOE must determine the extent to which the proposed test procedure would alter the product's measured energy efficiency. (42 U.S.C. 6293(e)(1)) If DOE determines that the amended test procedure would significantly alter the measured efficiency of a covered product, DOE must amend the applicable energy conservation standard accordingly. (42 U.S.C. 6293(e)(2))

Further, the Energy Independence and Security Act of 2007 (EISA 2007) amended EPCA to require that at least once every 7 years, DOE must review test procedures for all covered products and either amend test procedures (if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of 42 U.S.C. 6293(b)(3)) or publish notice in the **Federal Register** of any determination not to amend a test procedure. (42 U.S.C. 6293(b)(1)(A)) Under this requirement, DOE must review the test procedures for the various types of heating products not later than December 19, 2014 (*i.e.*, 7 years after the enactment of EISA 2007). Thus, the final rule resulting from this rulemaking will satisfy the requirement to review the test procedures for heating products within seven years of the enactment of EPCA.

DOE's test procedures for residential water heaters are found in the Code of Federal Regulations (CFR) at 10 CFR 430.23(e) and 10 CFR part 430, subpart B, appendix E. The test procedures include provisions for determining the energy efficiency (energy factor (EF)), as well as the annual energy consumption of these products.

There are separate test procedures for the two types of direct heating equipment (*i.e.*, vented home heating equipment and unvented home heating equipment), specifically 10 CFR 430.23(g) and 10 CFR part 430, subpart B, appendix G for unvented home heating equipment, and 10 CFR 430.23(o) and 10 CFR part 430, subpart B, appendix O for vented home heating equipment. (Hereafter in this notice, the terms "vented heater" and "unvented heater" are used as shorthand to describe the two types of direct heating equipment.) The vented heater test procedures include provisions for determining energy efficiency (annual fuel utilization efficiency (AFUE)), as well as annual energy consumption. The unvented heater test procedures currently have no provisions for determining energy efficiency, as all unvented heaters are considered 100-percent efficient. However, for unvented heaters that are the primary heating source for the home, there is a calculation of annual energy consumption based on a single assignment of active mode hours. For unvented heaters that are not the primary heating source for the home, there are no calculation provisions for either efficiency or annual energy consumption. Given that unvented heaters are considered 100-percent efficient, DOE has not established a test procedure for determining energy efficiency of these products (and thus, has not established energy conservation standards for these products), as there would be no energy savings that would result from such actions.

DOE's test procedures for pool heaters are found at 10 CFR 430.23(p) and 10 CFR part 430, subpart B, appendix P. The test procedures include provisions for determining two energy efficiency descriptors (*i.e.*, thermal efficiency and pool heater heating seasonal efficiency), as well as seasonal energy consumption.

In addition to the test procedure review provision discussed above, EISA 2007 also amended EPCA to require DOE to amend its test procedures for all covered products to include measurement of standby mode and off mode energy consumption. (42 U.S.C. 6295(gg)(2)(A)) Consequently, DOE is currently conducting a rulemaking to amend the test procedures for

residential water heaters, direct heating equipment, and pool heaters to include provisions for measuring the standby mode and off mode energy consumption of those products. DOE published a NOPR in the **Federal Register** on August 30, 2010, which proposed updates to the DOE test procedures for heating products to address the standby mode and off mode test procedure requirements under EPCA.³ 75 FR 52892. DOE published a supplemental notice of proposed rulemaking (SNOPR) in the **Federal Register** on September 13, 2011, which calls for the use of the second edition of International Electrotechnical Commission (IEC) Standard 62301, "Household Electrical Appliances—Measurement of standby power," in lieu of the first edition and also provides guidance on rounding and sampling. 76 FR 56347. However, that rulemaking was limited to the proposed test procedure updates to address the above-referenced standby mode and off mode requirements, and consequently, it did not address several other potential issues in DOE's existing test procedures for heating products. DOE plans to address these non-standby/off mode issues separately in this rulemaking. The potential issues that DOE has preliminarily identified and plans to address in this rulemaking are discussed in detail below in section II of this RFI.

II. Discussion

A. Test Procedure for Residential Water Heaters

1. Scope

DOE's test procedures for water heaters codified at 10 CFR 430.23(e) and 10 CFR part 430, subpart B, appendix E address gas-fired, electric, and oil-fired storage-type (*i.e.*, storage volume not less than 20 gallons (76 L)) and gas-fired and electric instantaneous-type (*i.e.*, storage volume less than 2 gallons (7.6 L)) water heaters. However, the procedure does not define electric instantaneous water heaters. In addition, it does not address the following types of products: (1) Gas-fired water heaters that have a storage volume at or above 2 gallons and less than 20 gallons (76 L); (2) electric storage water heaters with storage volume less than 20 gallons (76 L); and (3) storage water heaters with very large storage capacities, including oil-fired water heaters with storage volumes greater than 50 gallons (190 L), gas-fired water heaters with storage volumes above 100 gallons (379 L), and electric

³ For more information, please visit DOE's Web site at: http://www1.eere.energy.gov/buildings/appliance_standards/residential/waterheaters.html.

water heaters with storage volumes above 120 gallons (454 L). For this rulemaking, DOE is considering an expansion of the scope of the test procedure to include definitions and test methods for these types of products.

a. Water Heaters With Storage Volumes Between 2 Gallons (7.6 L) and 20 Gallons (76 L)

DOE's current test procedures are not applicable to water heaters with storage tanks that are at or above 2 gallons (7.6 L) and less than 20 gallons (76 L). In recent years, however, water heaters with such capacities have begun to populate the market. The definitions in the test procedure specify that instantaneous-type water heaters have a storage volume of less than two gallons (7.6 L) and that storage-type water heaters have a storage volume of 20 gallons (76 L) or more. 10 CFR part 430, subpart B, appendix E, sections 1.7 and 1.12. The definition for "Storage-type Water Heater of More than 2 Gallons (7.6 Liters) and Less than 20 Gallons (76 Liters)" is currently reserved. *Id.* at section 1.12.5. DOE is tentatively planning to address this gap in coverage by prescribing definitions and test procedures specifically for water heaters with storage volumes at or above 2 gallons (7.6 L) and less than 20 gallons (76 L). DOE seeks comment on the need for test procedures for products in this size range, as well as factors that should be considered when establishing a definition and test procedures for water heaters with storage volumes at or above 2 gallons (7.6 L) and 20 gallons (76 L). Additionally, DOE seeks comment on the need to characterize water heaters by attributes other than storage volume, such as heating or delivery capacity.

b. Electric Instantaneous Water Heaters

DOE's current test procedures do not contain a definition for electric instantaneous water heaters, but rather have a space reserved to define them. 10 CFR part 430, subpart B, appendix E, section 1.7.1. However, EPCA defines electric instantaneous water heaters as having an input capacity of 12 kW or less, which impacts scope of coverage. (42 U.S.C. 6291(27)(B)) Electric instantaneous water heaters are tankless water heaters (with storage volumes at or below 2 gallons (7.6 L)) that utilize electric heating elements to heat water on demand. The heating power required for electric instantaneous water heaters intended for whole home applications is typically much higher than the power capability commonly found in storage-type electric water heaters. Given the emergence of electric instantaneous water heaters on the market, DOE is

tentatively planning to address this gap in the test procedure by prescribing a definition specifically for electric instantaneous water heaters. DOE seeks comment on the need for a definition for these products. Although DOE is bound by EPCA to limit its regulations to units with an input capacity of no more than 12kW, it also seeks comment on other factors to consider when establishing a definition for electric instantaneous water heaters.

Additionally, DOE notes that the 24-hour simulated use test in DOE's test procedure for instantaneous water heaters at 10 CFR 430, Subpart B, Appendix E, section 5.2.4 is titled "24-hour Simulated Use Test for Gas Instantaneous Water Heaters." However, upon reviewing the procedure in section 5.2.4 and the corresponding calculations in section 6 of the test procedure, DOE believes the test method is also applicable for electric instantaneous water heaters and is currently being used to determine the energy factor of those products. DOE plans to propose modifying section 5.2.4 to clarify the method for testing electric instantaneous water heaters and prevent confusion. DOE will also consider whether additional provisions may help clarify the test procedure as it applies to electric instantaneous water heaters. DOE seeks comments on the need to update its test procedure for determining the energy efficiency of electric instantaneous water heaters.

c. Storage Water Heaters With Very Large Storage Capacities

The current DOE test procedure for residential water heaters only applies to gas-fired water heaters with storage volumes less than or equal to 100 gallons (379 L), electric storage water heaters with storage volumes less than or equal to 120 gallons (454 L), and oil-fired water heaters with storage volumes less than or equal to 50 gallons (190 L). 10 CFR part 430, subpart B, appendix E, sections 1.12.1, 1.12.2, and 1.12.4. In defining storage type water heaters, EPCA covers residential gas-fired storage water heaters with an input of 75,000 Btu per hour or less, electric storage water heaters with an input of 12 kilowatts or less, and oil-fired storage water heaters that have an input rating of 105,000 Btu/h or less. (42 U.S.C. 6291(27)(A)) DOE is not aware of any residential water heaters available on the market with storage volumes above 100 gallons, 120 gallons, and 50 gallons for gas-fired, electric, and oil-fired water heaters, respectively, that would be covered as residential products under EPCA. Due to the lack of water heaters with very large storage volumes that

meet the definition of a residential water heater, DOE believes it is unnecessary to expand the scope of the test procedure to include gas-fired products over 100 gallons, electric products over 120 gallons, or oil-fired products over 50 gallons, and seeks comment on this conclusion.

2. Draw Pattern

The current residential water heater test procedure includes a 24-hour simulated-use test for determining energy factor. 10 CFR part 430, subpart B, appendix E, sections 5.1.5 and 5.2.4. The 24-hour test specifies that 6 draws of equal volume be removed from the water heater in the first 6 hours of the test for a total draw of 64.3 gallons (243 L). Following the six draws, the water heater sits in an idle mode for the duration of the 24-hour test. *Id.* The draw pattern is the same regardless of the characteristics (*e.g.*, storage volume, input capacity) of the water heater.

Recent data^{4 5 6} suggest that the draw pattern can impact the energy factor of a water heater and can potentially offer an advantage to one type of water heater technology over another. In addition, these studies suggest that the existing draw pattern in the simulated use test may not be representative of actual draw patterns to which water heaters are subjected in the field. DOE recognizes that different water heaters will be subjected to different field demands (consumer usage patterns) because of their operational or performance differences. For example, it is a reasonable expectation that a small-volume storage water heater (*e.g.*, 30 gallons) designed for low-occupancy dwellings would not have to meet or be subjected to the same hot water demand or usage pattern that a large-volume water heater (*e.g.*, 75 gallon) is designed to accommodate. Given this understanding, if DOE continues to use a simulated use test (DOE is also considering a series of discrete tests to replace the simulated use test; see section II.A.3 below), DOE will consider revising the draw pattern to be more representative of typical usage patterns

⁴ Healy, WM, Ullah, T, and Roller, J., "Input-Output Approach to Predicting the Energy Efficiency of Residential Water Heaters—Testing of Gas Tankless and Electric Storage Water Heaters," ASHRAE Transactions 117 (2011).

⁵ Hoeschele, M.A. and Springer, D.A. "Field and Laboratory Testing of Gas Tankless Water Heater Performance," *ASHRAE Transactions* 114 (2): 453–461 (2008).

⁶ Bohac, D, Schoenbauer, B., Hewett, M., Lobenstein, M.S., Butcher, T. "Actual Savings and Performance of Natural Gas Tankless Water Heaters," Center for Energy and Environment Report for Minnesota Office of Energy Security (August 30, 2010).

experienced in the field. DOE may also consider amendments to its test procedure to provide for different draw patterns for different water heaters based upon the characteristics of each water heater, such as the amount of hot water the unit can provide, the storage volume, or the heating rate (*i.e.*, input rate). DOE seeks comments on possible improvements that could be made to DOE's existing 24-hour simulated use test procedure for water heaters. In particular, DOE seeks comments on typical residential hot water usage patterns (*e.g.*, the number of draws during a day's use, the timing of and spacing between those draws, the lengths of the draws, the flow rates at which those draws are taken) and considerations for establishing different draw patterns based on differing water heater characteristics.

3. Discrete Performance Tests

As noted above, DOE is considering a series of discrete tests as an alternative approach to using a 24-hour simulated use test in determining energy factor for residential water heaters. The results of the discrete tests would be used as inputs into an algorithm to calculate the energy factor. The discrete tests would determine factors such as thermal efficiency (or coefficient of performance (COP)), recovery efficiency, standby energy loss coefficient, and cycling losses. The results of these tests, and possibly other tests, could then be mathematically combined to calculate an energy factor rating.

DOE believes that using the mathematically-combined results of discrete tests to calculate energy factor offers several benefits, but it also has some drawbacks when compared to using a 24-hour simulated use test. Discrete tests may lead to simpler, more repeatable tests, and DOE tentatively believes the results of discrete tests could potentially be used as inputs to simulation models for predicting energy consumption and that an array of different installations and field conditions could be modeled. However, DOE is uncertain of the feasibility of characterizing water heaters and developing an energy factor algorithm based on empirical data because it is not aware of any such algorithms that have been thoroughly proven to be effective at estimating the energy factor. Another challenge would be that the tests may need to vary for different technologies, thereby raising possible concerns about test equitability. DOE also notes that a simulated use test has the advantage of placing the same demand on any water heater suitable for a particular application, thereby arguably leading to

a more equitable test. DOE seeks comments on the benefits and drawbacks of using a series of discrete performance tests in place of the current 24-hour simulated use test for determining the energy factor of residential water heaters. DOE also requests comments on the feasibility and equitability of a series of discrete tests and possible approaches for establishing discrete tests that can result in an energy factor rating.

4. Test Conditions

a. Water Delivery Temperature

The current residential water heater test procedure calls for hot water to be delivered at 135 °F \pm 5 °F (57.2 °C \pm 2.8 °C). 10 CFR part 430, subpart B, appendix E, section 2.4. However, the Underwriters Laboratories (UL) standards specify that manufacturers must ship residential water heaters with thermostats set at temperatures no greater than 125 °F (52 °C) to safeguard against scalding hazards. (UL 174, *Standard for Household Electrical Storage Tank Water Heaters*, Underwriters Laboratories (April 29, 2004)) DOE's research suggests that the majority of water heaters are shipped with the thermostat preset to 120 °F (49 °C). In the analysis for the April 2010 final rule amending energy conservation standards for water heaters, the Department estimated that the average set point temperature for a residential water heater was 124.2 °F (51.2 °C), with an estimated 61 percent of water heaters being installed with a set point at 120 °F (49 °C). (For more information see chapter 7 of the technical support document (TSD) for DOE's April 16, 2010 final rule (75 FR 20112) for energy conservation standards for residential heating products.⁷)

The set point impacts the performance of various types of water heaters differently, and as a result, DOE plans to reexamine the appropriateness of the set point specifications in the test procedure. A higher delivery temperature has a disproportionately large and negative impact on heat pump water heater efficiency, because heat pump water heaters can have markedly different performance at elevated stored water temperature compared to temperatures more representative of typical residential usage. For other types of water heaters, heat transfer characteristics between the heating source and the water may differ at lower

delivery temperatures, thereby affecting efficiency.

DOE notes that some end uses (*e.g.*, dishwasher operation) require hot water delivered at 130 °F to 140 °F (54 °C to 60 °C) for effective operation. While most of these machines contain booster heaters that can increase the water temperature, there are some machines not so equipped that require the water heater to be set to a higher temperature in order to operate properly. Additionally, concerns exist about the potential for the growth of *Legionella* in hot water stored below 135 °F (57 °C). ASHRAE Guideline 12, "*Minimizing the Risk of Legionellosis Associated with Building Water Systems*,"⁸ states that the temperature range most favorable for amplification of legionellae bacteria is 77–108 °F (25–42 °C), and that document recommends that when practical, hot water should be stored at temperatures of 120 °F (49 °C) or above. However, the guideline also states that for high-risk situations (such as in health care facilities and nursing homes), hot water should be stored above 140 °F (60 °C).

DOE believes the test procedure for residential water heaters should be representative of the conditions typically encountered in the field. DOE also recognizes that not all water heaters in the field will be set at 135 °F (57 °C), because the majority of water heaters are shipped pre-set at 120 °F (49 °C), and DOE does not believe most consumers change their water heaters' set points. DOE seeks comment on the appropriate set point temperature for the residential water heater test procedure.

b. Ambient Temperature and Relative Humidity

The residential water heater test procedure generally requires that testing be performed in an environment fixed at 67.5 °F \pm 2.5 °F (19.7 °C \pm 1.4 °C). For heat pump water heaters, however, the environmental conditions are more tightly constrained at 67.5 °F \pm 1 °F (19.7 °C \pm 0.6 °C) and 50 percent \pm 1 percent relative humidity, because the heat pump water heater energy use is highly dependent on the ambient temperature and relative humidity. Because water heaters are placed in a wide variety of locations within and outside of a home, and given the large impact of these factors on heat pump water heater efficiency, DOE plans to reexamine the ambient air test conditions specified in the test procedure in order to assess whether the currently-specified conditions are

⁷ Docket number EE-2006-BT-STD-0129. The TSD is available online at: http://www.eere.energy.gov/buildings/appliance_standards/residential/heating_products_fr_tsd.html.

⁸ For more information visit: <http://www.ashrae.org>.

representative of those conditions that are typically encountered in residential installations. Therefore, to help assess the ambient temperature and relative humidity requirements in the residential water heater test procedure for this rulemaking, DOE seeks comment on the appropriate ambient temperature and relative humidity testing points and tolerances for all types of residential water heaters.

5. Other Issues

DOE also seeks comments on other relevant issues that would affect the test procedures for residential water heaters. Although DOE has attempted to identify those portions of the test procedure where it believes amendments may be warranted, interested parties are welcome to provide comments on any aspect of the test procedure, including updates of referenced standards, as part of this comprehensive 7-year-review rulemaking.

B. Test Procedure for Direct Heating Equipment

1. Vented Hearth Heaters

The vented home heating equipment test procedures are codified at 10 CFR 430.23(o) and 10 CFR part 430, subpart B, appendix O. Appendix O provides for a complete evaluation of the efficiency of vented direct heating equipment in order to determine the product's AFUE, which is the regulating metric set by EPCA. (42 U.S.C. 6291(22)(A)) In the April 2010 final rule adopting energy conservation standards for heating products, DOE established a separate product class of vented home heating equipment for vented hearth heaters, and determined that DOE's test procedures in Appendix O would apply to vented hearth products.

DOE is interested in whether the test procedure for vented home heating equipment is being applied uniformly for vented hearth heaters. This would apply to both the actual testing provisions and the application of the equations to determine annual efficiency (*i.e.*, AFUE) and annual energy consumption. DOE currently believes that vented hearth heater manufacturers can use the existing test procedure provisions for manually-controlled vented heaters to produce uniform and representative measures of energy consumption and efficiency. However, DOE also believes that technical clarifications or other improvements designed to avoid non-uniform application should always be considered. To this end, DOE seeks information on any clarification, updates, or technical improvements that

would allow for uniform and representative measures of energy consumption and efficiency across all vented hearth heaters.

2. Other Issues

DOE also seeks comments on other relevant issues that would affect the test procedures for residential direct heating equipment (both vented type and unvented type). Although DOE has attempted to identify those portions of the test procedure where it believes amendments may be warranted, interested parties are welcome to provide comments on any aspect of the test procedure, including updates of referenced standards, as part of this comprehensive 7-year-review rulemaking.

C. Test Procedure for Pool Heaters

1. Electric Pool Heaters

DOE's test procedures for pool heaters are found at 10 CFR 430.23(p) and 10 CFR part 430, subpart B, appendix P. In its definition of "efficiency descriptor," EPCA specifies that for pool heaters, the efficiency descriptor shall be "thermal efficiency." (42 U.S.C. 6291(22)(E)) Further, EPCA defines the "thermal efficiency of pool heaters" as the "measure of the heat in the water delivered at the heater outlet divided by the heat input of the pool heater as measured under test conditions specified in section 2.8.1 of the *American National Standard for Gas Fired Pool Heaters*, Z21.56–1986, or as may be prescribed by the Secretary." (42 U.S.C. 6291(26))⁹ As part of a recent test procedure rulemaking, DOE proposed a new efficiency metric for pool heaters, titled "integrated thermal efficiency." 75 FR 52892, 52899–901 (August 30, 2010).¹⁰ The proposed integrated thermal efficiency metric builds on the existing thermal efficiency metric and includes the additional electrical energy consumption during standby mode and off mode operation, as required by EISA 2007. (42 U.S.C. 6295(gg)(2)(A)) DOE notes that because current energy conservation standards for pool heaters do not account for standby mode and off mode energy use, manufacturers are not required to certify compliance using the integrated thermal efficiency metric at this time. Until such time as compliance is required with amended energy

conservation standards that do account for standby mode and off mode energy consumption, manufacturers are to continue using the thermal efficiency metric for certification and compliance purposes.

Certain types of pool heaters are powered by energy sources other than gas, and DOE believes that absent modifications, the currently incorporated ANSI Z21.56 test method for gas-fired pool heaters may not be appropriate for pool heaters that operate with electricity (including heat pump pool heaters) or oil. However, DOE notes that its test procedure for pool heaters at 10 CFR 430 Subpart B, Appendix P already contains slight modifications to allow the ANSI Z21.56 test method to be applied to oil-fired pool heaters, and DOE does not believe further action is necessary for those products. In the December 2009 NOPR for energy conservation standards for heating products DOE determined that as currently drafted, the DOE test procedure for pool heaters is not suitable for electric pool heaters (including heat pump pool heaters), largely based upon the fact that EPCA specifies that "thermal efficiency" must be the efficiency descriptor for these products. DOE sought comment regarding potential ways to apply a thermal efficiency metric to electric pool heaters (including heat pump pool heaters). 74 FR 65852, 65866–67 (Dec. 11, 2009).

For electric pool heaters (including those units using heat pump technology), the relevant energy input is electricity instead of gas. "Thermal efficiency," as determined using ANSI Z21.56, is a measure of heat in the water delivered at the heater outlet (in Btu/h) divided by the heat input (in Btu/h) of the fuel. It is possible to develop an integrated thermal efficiency rating for a heat pump pool heater by converting the power input in watts to the input in Btu/h. However, if such an integrated thermal efficiency metric were applied to heat pump pool heaters, DOE notes that the numerical result would be efficiency ratings of over 100 percent, which may cause confusion for consumers because heat pumps are typically rated using industry standards for Coefficient of Performance (COP). In contrast, electric pool heaters that operate with resistance heating (as opposed to heat pump technology), are typically rated with a thermal efficiency metric. Consequently, the ratings for electric pool heaters using these two competing technologies are not always directly comparable. Another consideration for heat pump pool heaters is that performance depends

⁹ In an August 2010 NOPR, DOE proposed to use the most recent version of this standard, ANSI Z21.56–2006. 75 FR 52892, 52899–901 (August 30, 2010).

¹⁰ DOE subsequently published an SNOPIR for this rulemaking on September 13, 2011. 76 FR 56347. However, this SNOPIR did not modify the proposal for integrated thermal efficiency contained in the August 2010 NOPR.

upon the ambient temperature and humidity, so environmental conditions for testing are much more important for heat pump pool heaters than for gas-fired pool heaters.

In light of the above, DOE tentatively plans to update the pool heater test procedures by adding provisions to address electric heat pump pool heaters through use of a COP performance metric drawn from industry standards, coupled with a separate conversion to thermal efficiency (*i.e.*, the regulating metric specified in EPCA) and integrated thermal efficiency (*i.e.*, the new regulating metric, as amended by EISA 2007). Because there are currently no energy conservation standards for electric heat pump pool heaters, no certification or reporting would be required for those products until such time as DOE sets minimum energy conservation standards for those products (which will include energy consumption in active, standby, and off modes). However, after a test method is adopted for electric heat pump pool heaters, manufacturers would be required to use the DOE test method for making efficiency representations and would be able to use the COP metric, the integrated thermal efficiency metric, or both for making efficiency representations during this interim period. Compliance with the amended test procedure for representations purposes would be required 180 days after the date of publication of the test procedure final rule. Once DOE sets energy conservation standards for pool heaters, EPCA requires the use of the thermal efficiency metric. Therefore, if DOE were to set energy conservation standards for heat pump pool heaters, manufacturers would then be required to rate their products using the integrated thermal efficiency metric, although they would still have the option of making supplemental representations of efficiency using the COP metric.

DOE requests comment on the applicability of the ANSI Z21.56 test method for pool heaters that are powered by energy sources other than gas. Additionally, DOE seeks comment on its tentative plans for updating the pool heater test procedure to include electric pool heaters and information on potential methods to apply the integrated thermal efficiency metric to electric pool heaters (including heat pump pool heaters).

2. Other Issues

DOE also seeks comments on other relevant issues that would affect the test procedures for residential pool heaters. Although DOE has attempted to identify

those portions of the test procedure where it believes amendments may be warranted, interested parties are welcome to provide comments on any aspect of the test procedure as part of this comprehensive 7-year-review rulemaking.

III. Public Participation

DOE invites all interested parties to submit in writing by November 28, 2011, comments and information on matters addressed in this notice and on other matters relevant to DOE's consideration of amended test procedures for residential water heaters, direct heating equipment, and pool heaters.

After the close of the comment period, DOE will begin collecting data, conducting relevant analyses, and reviewing the public comments. These actions will be taken to aid in the development of a test procedure NOPR for residential water heaters, direct heating equipment, and pool heaters.

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

Issued in Washington, DC, on September 29, 2011.

Kathleen Hogan,

Deputy Assistant Secretary for Energy Efficiency, Office of Technology Development, Energy Efficiency and Renewable Energy.

[FR Doc. 2011-25815 Filed 10-11-11; 8:45 am]

BILLING CODE 6450-01-P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245-AG26

Small Business Size Standards: Information

AGENCY: U.S. Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The U.S. Small Business Administration (SBA) proposes to increase small business size standards

for 15 industries in North American Industry Classification System (NAICS) Sector 51, Information. As part of its ongoing comprehensive review of all size standards, SBA has evaluated all receipts based size standards in NAICS Sector 51 to determine whether the existing size standards should be retained or revised. This proposed rule is one of a series of proposals that examines size standards of industries grouped by NAICS Sector. The SBA issued a White Paper entitled "Size Standards Methodology" and published a document in the October 21, 2009, issue of the **Federal Register** that "Size Standards Methodology" is available on its Web site at <http://www.sba.gov/size> for public review and comments. The "Size Standards Methodology" White Paper explains how SBA establishes, reviews and modifies its receipts based and employee based small business size standards. In this proposed rule, SBA has applied its methodology that pertains to establishing, reviewing and modifying a receipts based size standard.

DATES: SBA must receive comments to this proposed rule on or before December 12, 2011.

ADDRESSES: You may submit comments, identified by RIN 3245-AF26, by one of the following methods: (1) Federal eRulemaking Portal: <http://www.regulations.gov>; follow the instructions for submitting comments; or, (2) Mail/Hand Delivery/Courier: Khem R. Sharma, PhD, Chief, Size Standards Division, 409 Third Street, SW, Mail Code 6530, Washington, DC 20416. The SBA will not accept comments submitted by e-mail.

SBA will post all comments to this proposed rule on <http://www.regulations.gov>. If you wish to submit confidential business information (CBI) as defined in the User Notice at <http://www.regulations.gov>, you must submit such information to U.S. Small Business Administration, Khem R. Sharma, PhD, Chief, Size Standards Division, 409 Third Street, SW, Mail Code 6530, Washington, DC 20416, or send an e-mail to sizestandards@sba.gov. You should highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. The SBA will review your information and determine whether it will make the information public or not.

FOR FURTHER INFORMATION CONTACT: Khem R. Sharma, PhD, Chief, Size Standards Division, (202) 205-6618 or sizestandards@sba.gov.