[6450-01-P]

DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2020–BT–STD–0014]

RIN 1904-AE68

Energy Conservation Program: Energy Conservation Standards for Certain Commercial and Industrial Equipment; Early Assessment Review; Refrigerated Bottled or Canned Beverage Vending Machines

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

ACTION: Request for information ("RFI").

SUMMARY: The U.S. Department of Energy ("DOE") is undertaking an early assessment review for amended energy conservation standards for Refrigerated Bottled or Canned Beverage Vending Machines ("beverage vending machines") to determine whether to amend applicable energy conservation standards for this equipment. Specifically, through this request for information ("RFI"), DOE seeks data and information that could enable the agency to determine whether DOE should propose a "no-new-standard" determination because a more-stringent standard: would not result in a significant savings of energy; is not technologically feasible; is not economically justified; or any combination of the foregoing. DOE welcomes written comments from

the public on any subject within the scope of this document (including those topics not specifically raised in this RFI), as well as the submission of data and other relevant information concerning this early assessment review.

DATES: Written comments and information are requested and will be accepted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

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-2020-BT-STD-0014, by any of the following methods:

1. *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the instructions for submitting comments.
2. *E-mail*: to BVM2020STD0014@*ee.doe.gov*. Include docket number EERE-2020-BT-STD-0014 in the subject line of the message.
3. *Postal Mail*: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 287-1445. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.
4. *Hand Delivery/Courier*: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza, SW.,

Suite 600, Washington, DC, 20024. Telephone: (202) 287-1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Docket: The docket for this activity, which includes *Federal Register* notices, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov*. All documents in the docket are listed in the *http://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket webpage can be found at: *http://www.regulations.gov/docket?D=EERE-2020-BT-STD-0014*. The docket webpage contains instructions on how to access all documents, including public comments, in the docket. See section III for information on how to submit comments through *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Dr. Stephanie Johnson, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building

Technologies Office, EE-5B, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 287-1943. E-mail: *ApplianceStandardsQuestions@ee.doe.gov*.

Ms. Sarah Butler, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 586-1777. E-mail: *Sarah.Butler@hq.doe.gov*.

For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by e-mail: *ApplianceStandardsQuestions@ee.doe.gov*.

SUPPLEMENTARY INFORMATION:

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I. Introduction

DOE has established an early assessment review process to conduct a more focused analysis of a specific set of facts or circumstances that would allow DOE to determine that, based on one or more statutory criteria, a new or amended energy

conservation standard is not warranted. The purpose of this review is to limit the resources, from both DOE and stakeholders, committed to rulemakings that will not satisfy the requirements in EPCA that a new or amended energy conservation standard save a significant amount of energy, and be economically justified and technologically feasible. *See* 85 FR 8626, 8653-8654 (Feb. 14, 2020).

As part of the early assessment, DOE publishes a RFI in the *Federal Register,* announcing that DOE is considering initiating a rulemaking proceeding and soliciting comments, data, and information on whether a new or amended energy conservation standard would save a significant amount of energy and be technologically feasible and economically justified. Based on the information received in response to the RFI and DOE's own analysis, DOE will determine whether to proceed with a rulemaking for a new or amended energy conservation standard.

If DOE makes an initial determination based upon available evidence that a new or amended energy conservation standard would not meet the applicable statutory criteria, DOE would engage in notice and comment rulemaking before issuing a final determination that new or amended energy conservation standards are not warranted. Conversely, if DOE makes an initial determination that a new or amended energy conservation standard would satisfy the applicable statutory criteria or DOE's analysis is inconclusive, DOE would undertake the preliminary stages of a rulemaking to issue a new or amended energy conservation standard. Beginning such a rulemaking, however, would not preclude DOE from later making a determination that a new or amended

energy conservation standard cannot satisfy the requirements in EPCA, based upon the full suite of DOE's analyses. *See* 85 FR 8626, 8654 (Feb. 14, 2020).

A. Authority

The Energy Policy and Conservation Act, as amended ("EPCA"),[1] among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291-6317) Title III, Part B[2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include beverage vending machines, the subject of this document. (42 U.S.C. 6291(40); 42 U.S.C. 6295(v))[3] EPCA directed DOE to prescribe energy conservation standards for beverage vending machines not later than 4 years after August 8, 2005. (42 U.S.C 6295(v)(1))

Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) testing, (2) labeling, (3) Federal energy conservation standards, and (4)

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[1] All references to EPCA in this document refer to the statute as amended through America's Water Infrastructure Act of 2018, Public Law 115–270 (Oct. 23, 2018).

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[3] Because Congress included beverage vending machines in Part B of Title III of EPCA, the consumer product provisions of Part B of Title III of EPCA (rather than the industrial equipment provisions of Part C) apply to beverage vending machines. DOE placed the regulatory requirements specific to beverage vending machines in title 10 of the Code of Federal Regulations ("CFR") part 431, "Energy Efficiency Program for Certain Commercial and Industrial Equipment" as a matter of administrative convenience based on their type and refers to beverage vending machines as "equipment" throughout this document because of their placement in 10 CFR part 431. DOE has maintained use of the term "product" as appropriate when referring to the statutory consumer product provisions of EPCA that are applicable to beverage vending machines. Despite the placement of beverage vending machines in 10 CFR part 431, the relevant provisions of Part B of Title III of EPCA and 10 CFR part 430, which are applicable to all product types specified in Part B of Title III of EPCA, are applicable to beverage vending machines. See 74 FR 44914, 44917 (Aug. 31, 2009) and 81 FR 1028, 1029 (Jan. 8, 2016). The regulatory provisions of 10 CFR 430.33 and 10 CFR 430.34 and subparts D and E of 10 CFR part 430 are applicable to beverage vending machines.

certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

Federal energy efficiency requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c)) DOE may, however, grant waivers of Federal preemption in limited instances for particular State laws or regulations, in accordance with the procedures and other provisions set forth under 42 U.S.C. 6297(d).

EPCA requires that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE evaluate the energy conservation standards for each type of covered product, including those at issue here, and publish either a notice of determination that the standards do not need to be amended, or a NOPR that includes new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1)) In making a determination that the standards do not need to be amended, DOE must evaluate whether amended standards (1) will result in significant conservation of energy, (2) are technologically feasible, and (3) are cost effective as described under 42 U.S.C. 6295(o)(2)(B)(i)(II). (42 U.S.C. 6295(m)(1)(A); 42 U.S.C. 6295(n)(2)) Under 42 U.S.C. 6295(o)(2)(B)(i)(II), DOE must determine whether the benefits of a standard exceed its burdens by, to the greatest extent practicable,

considering the savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered product which are likely to result from the imposition of the standard. If DOE determines not to amend a standard based on the statutory criteria, not later than 3 years after the issuance of a final determination not to amend standards, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(3)(B)) DOE must make the analysis on which a determination is based publicly available and provide an opportunity for written comment. (42 U.S.C. 6295(m)(2))

In proposing new standards, DOE must evaluate that proposal against the criteria of 42 U.S.C. 6295(o) and follow the rulemaking procedures set out in 42 U.S.C. 6295(p). (42 U.S.C. 6295(m)(1)(B)) If DOE decides to amend the standard based on the statutory criteria, DOE must publish a final rule not later than 2 years after energy conservation standards are proposed. (42 U.S.C. 6295(m)(3)(A))

B. Rulemaking History

In 2009, DOE established initial energy conservation standards for beverage vending machines manufactured on or after August 31, 2012. 74 FR 44914 (August 8, 2009) (the "August 2009 Final Rule"). Standards were established for two classes of

beverage vending machines, Class A and Class B beverage vending machines,[4] and set maximum daily energy consumption limits (in kilowatt-hours per day) based on refrigerated volume. *Id.*

On January 8, 2016, DOE published a final rule establishing new and amended standards for beverage vending machines. 81 FR 1028 (the "January 2016 Final Rule"). DOE amended the standards for Class A and Class B beverage vending machines, and established standards for two new classes: Combination A and Combination B beverage vending machines.[5] 81 FR 1028, 1113. Compliance with the new and amended energy conservation standards is required for beverage vending machines manufactured on or after January 8, 2019. *Id*.

The new and amended energy conservation standards published in the January 2016 final rule, which are the current standards, are located at 10 CFR 431.296(b). The

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[4] DOE defined Class A as a refrigerated bottled or canned beverage vending machine that is fully cooled, and is not a combination vending machine; and Class B as any refrigerated bottled or canned beverage vending machine not considered to be Class A, and is not a combination vending machine. 74 FR 44914, 44924. DOE defined a "combination vending machine" as a refrigerated bottled or canned beverage vending machine that also has non-refrigerated volumes for the purpose of vending other, non-"sealed beverage" merchandise." 74 FR 44914, 44967.

[5] DOE currently defines Class A as a refrigerated bottled or canned beverage vending machine that is not a combination vending machine and in which 25 percent or more of the surface area on the front side of the beverage vending machine is transparent; Class B as a refrigerated bottled or canned beverage vending machine that is not considered to be Class A and is not a combination vending machine; Combination A as a combination vending machine where 25 percent or more of the surface area on the front side of the beverage vending machine is transparent; Combination B as a combination vending machine that is not considered to be Combination A; and "combination vending machine" as a bottled or canned beverage vending machine containing two or more compartments separated by a solid partition, that may or may not share a product delivery chute, in which at least one compartment is designed to be refrigerated, as demonstrated by the presence of temperature controls, and at least one compartment is not. 10 CFR 431.292.

currently applicable DOE test procedures for beverage vending machines appear at 10 CFR 431.294.

II. Request for Information

DOE is publishing this RFI to collect data and information during the early assessment review to inform its decision, consistent with its obligations under EPCA, as to whether the Department should proceed with an energy conservation standards rulemaking. Accordingly, in the following sections, DOE has identified specific issues on which it seeks input to aid in its analysis of whether an amended standard for beverage vending machines would not save a significant amount of energy or be technologically feasible or economically justified. In particular, DOE is interested in any information indicating that there has not been sufficient technological or market changes since DOE last conducted an energy conservation standards rulemaking analysis for beverage vending machines to suggest a more-stringent standard could satisfy these criteria. DOE also welcomes comments on other issues relevant to its early assessment that may not specifically be identified in this document.

A. Significant Savings of Energy

On January 8, 2016, DOE established energy conservation standards for beverage vending machines that are expected to result in 0.044 quads of site energy savings and 16 percentage reduction in site energy use over a 30-year period. 81 FR 1028, 1030.

Additionally, in the January 2016 Final Rule, DOE estimated that an energy conservation standard established at an energy use level equivalent to that achieved using the maximum available technology ("max-tech") would have resulted in 0.084 additional quads of savings. 81 FR 1028, 1096. This represents a 36 percent reduction in energy use compared to the estimated national energy use at the established energy conservation standard level. If DOE determines that a more-stringent energy conservation standard would not result in an additional 0.3 quad of site energy savings or an additional 10-percent reduction in site energy use over a 30-year period, DOE would propose to make a no-new-standards determination. DOE seeks comment on energy savings that could be expected from more-stringent standards for beverage vending machines.

While DOE's request for information is not limited to the following issues, DOE is particularly interested in comment, information, and data on the following.

Issue 1: DOE seeks information on whether the analysis from the January 2016 Final Rule is applicable to the current beverage vending machine market. Specifically, DOE requests comment on whether the previous estimates of energy savings at the max-tech energy use level represent the savings that would be realized were DOE to establish future amended energy conservation standards at that level.

Issue 2: DOE seeks information on the January 2016 Final Rule analysis resulting in the energy savings estimates. Specifically, DOE requests comment

and data on updates to the relevant analysis inputs, including stock of beverage vending machines, shipments, efficiency distributions, and the incorporation of various refrigerants in the beverage vending machine market. DOE also requests data on market share by equipment class and refrigerant.

B. Technological Feasibility

During the January 2016 Final Rule, DOE considered a number of technology options that manufacturers could use to reduce energy consumption in beverage vending machines. DOE seeks comment on any changes to these technology options that could affect whether DOE could propose a "no-new-standards" determination, such as an insignificant increase in the range of efficiencies and performance characteristics of these technology options. DOE also seeks comment on whether there are any other technology options that DOE should consider in its analysis.

While DOE's request for information is not limited to the following issues, DOE is particularly interested in comment, information, and data on the following.

Issue 3: DOE requests feedback on whether the use of alternative refrigerants could impact: beverage vending machine efficiencies, the viability or efficiency of other technology options incorporated into the equipment (*e.g.*, refrigeration system components, additional sensing/safety components), the availability of equipment features, or consumer utility.

C. Economic Justification

In determining whether a proposed energy conservation standard is economically justified, DOE analyzes, among other things, the potential economic impact on consumers, manufacturers, and the Nation. DOE seeks comment on whether there are economic barriers to the adoption of more-stringent TSLs. DOE also seeks comment and data on any other aspects of its economic justification analysis from the January 2016 Final Rule that may indicate whether a more-stringent energy conservation standard would not be economically justified or cost effective.

III. Submission of Comments

DOE invites all interested parties to submit in writing by [**INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER***], comments and information on matters addressed in this notice and on other matters relevant to DOE's early assessment of whether more-stringent energy conservation standards are not warranted for beverage vending machines.

Submitting comments via http://www.regulations.gov. The *http://www.regulations.gov* webpage requires you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If

your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. If this instruction is followed, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *http://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *http://www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *http://www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment

tracking number that *http://www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *http://www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. Faxes will not be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English, and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. 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 via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

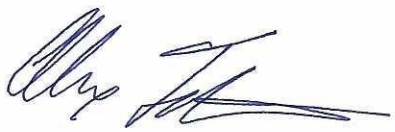
DOE considers public participation to be a very important part of the process for developing test procedures and energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of this process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the process. Anyone who wishes to be added

to the DOE mailing list to receive future notices and information about this process should contact Appliance and Equipment Standards Program staff at (202) 287-1445 or via e-mail at *ApplianceStandardsQuestions@ee.doe.gov*.

Signing Authority

This document of the Department of Energy was signed on May 8, 2020, by Alexander N. Fitzsimmons, Deputy Assistant Secretary for Energy Efficiency, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the Federal Register.

Signed in Washington, D.C., on May 8, 2020.



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