

[6450-01-P]

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 431

[EERE-2014-BT-TP-0054]

RIN 1904-AD43

**Energy Conservation Program: Test Procedures for Compressors**

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

**ACTION:** Request for Information (RFI).

**SUMMARY:** On January 4, 2017, the U.S. Department of Energy (“DOE”) published a final rule establishing new test procedures for certain varieties of compressors. The final rule established definitions, materials incorporated by reference, sampling plans, representations requirements, enforcement provisions and test procedures for certain varieties of compressors. Since that time, DOE has received correspondence, raising concerns that certain issues and information may not have been fully considered during the original rulemaking proceeding and also indicating further clarification may be needed to implement the rule as adopted. As a result, by this RFI, DOE is soliciting further data and information regarding the compressor test procedure and announcing that DOE will not seek to enforce the test procedure rule for 180 days (i.e., until December 30, 2017) while it considers the data and information already submitted and any further material submitted in response to this request for information.

**DATES:** Comments: DOE will accept comments, data, and information regarding this RFI until

[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Interested parties are encouraged to submit comments using the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). Any comments submitted must identify the request for information concerning the test procedures for compressors. You may submit comments, identified by Docket Number, EERE-2014-BT-TP-0054, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *E-mail:* [AirCompressors2014TP0054@ee.doe.gov](mailto:AirCompressors2014TP0054@ee.doe.gov). Include the docket number, EERE-2014-BT-TP-0054 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:* Appliance Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, Compressor TP RFI Docket Number: EERE-2014-BT-TP-0054, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-6636. 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:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza, SW., 6<sup>th</sup> Floor, Washington, DC, 20024. Telephone: (202) 586-6636. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (faxes) will be accepted. For detailed instructions on submitting comments and additional information on the rulemaking process, see section II of this document (Public Participation).

**FOR FURTHER INFORMATION CONTACT:**

Mr. James Raba, 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) 586-8654. E-mail: [ApplianceStandardsQuestions@ee.doe.gov](mailto:ApplianceStandardsQuestions@ee.doe.gov).

Ms. Mary Greene, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 586-1817. E-mail: [Mary.Greene@hq.doe.gov](mailto:Mary.Greene@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) 586-6636 or by e-mail: [ApplianceStandardsQuestions@ee.doe.gov](mailto:ApplianceStandardsQuestions@ee.doe.gov).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. Authority and Background

- A. Coverage Determination
  - B. Test Procedure
  - C. Questions Raised About Test Procedure
  - D. Request for Information and Enforcement Forbearance
- II. Public Participation
    - A. Submission of Comments
- III. Approval of the Office of the Secretary

## **I. Authority and Background**

### **A. Coverage Determination**

Title III of the Energy Policy and Conservation Act of 1975, as amended (“EPCA”), sets forth a variety of provisions designed to improve energy efficiency. (42 U.S.C. 6291, *et seq.*) Part C of Title III, which for editorial reasons was re-designated as Part A-1 upon incorporation into the U.S. Code (42 U.S.C. 6311– 6317), establishes the “Energy Conservation Program for Certain Industrial Equipment.” EPCA provides that DOE may include a type of industrial equipment, including compressors, as covered equipment if it determines that to do so is necessary to carry out the purposes of Part A-1. (42 U.S.C. 6311(2)(B)(i) and 6312(b)). The purpose of Part A-1 is to improve the efficiency of electric motors and pumps and certain other industrial equipment in order to conserve the energy resources of the Nation. (42 U.S.C 6312(a)) On November 15, 2016, DOE published a Notice of Final Determination of Coverage, classifying compressors as covered equipment. The final coverage determination became effective on December 15, 2016. 81 FR 79991.

## **B. Test Procedure**

DOE may develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of each covered equipment. (42 U.S.C. 6314). Manufacturers of covered equipment must use the prescribed DOE test procedure as the basis for certifying to DOE that their equipment complies with the applicable energy conservation standards adopted under EPCA and when making any representations regarding the energy use or efficiency of that equipment. (42 U.S.C. 6295(s), 6316(a) and 6314(d)).

On January 4, 2017, DOE published a final rule to establish new test procedures for certain varieties of compressors. 82 FR 1052. The final rule established definitions, materials incorporated by reference, sampling plans, representations requirements, enforcement provisions and test procedures for certain varieties of compressors. The effective date of the test procedure rule was originally February 3, 2017 – i.e. 30 days after publication in the *Federal Register*.

Effective on February 1, 2017, DOE temporarily postponed the effective date of its January 4<sup>th</sup> final rule. See 82 FR 8985 (February 2, 2017). On March 21, 2017, the effective date of the test procedure final rule was further extended to July 3, 2017, the date on which EPCA (through 42 U.S.C. 6314(d)) requires compliance with that procedure. (82 FR 14426).

## **C. Questions Raised About Test Procedure**

A number of small businesses have written DOE expressing concern about the economic

burden of the test procedure rule (*see e.g.*, submission from Compressed Air Systems (CAS)<sup>1</sup>). They are concerned both about the cost of implementing the necessary changes to comply with the test procedure, as well as the cost of changing their informational literature to comply with the representation requirements. For example, Compressed Air Systems (CAS) has argued that DOE's cost estimates for the test procedure rule significantly under-estimated the cost the rule would impose and that when the DOE performed its financial impact analysis DOE failed to take into account a number of factors.

Further, CAS also has raised questions regarding implementation of the test procedure, specifically the application of the ancillary equipment required for testing in Table 1 and Table 2 of section B4 within appendix A to subpart T of part 431 (See 82 FR 1103.). CAS claims to need clarification on appropriate filters and drains necessary to conduct the required test, as well as information on the interaction between DOE's test requirements and regulations already in force issued by the Environmental Protection Agency and the Occupational Safety and Health Administration (see data and information in docket).

DOE also received other comments pertaining to the compressor test procedure final rule both supporting the rule and voicing concerns about the rule, which can be viewed in the docket.

#### **D. Request for Information and Enforcement Forbearance**

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<sup>1</sup> A notation in this form provides a reference for information that is in the docket for the compressor test procedure rulemaking (Docket No. EERE-2014-BT-TP-0054) (available at <https://www.regulations.gov/docketBrowser?rpp=25&so=DESC&sb=commentDueDate&po=0&dct=N%2BFR%2BPR%2BO&D=EERE-2014-BT-TP-0054>).

Given the issues raised by small businesses, DOE is requesting additional data and information regarding the cost of implementing the existing test procedure, whether the specific mechanics of implementing the existing test procedure are sufficiently clear, and issues, if any, with the interaction of the DOE test procedure with existing rules of other Federal agencies. DOE will not seek to enforce compliance of the test procedure final rule for a period of 180 days from the July 3, 2017, compliance date of the test procedure final rule, as DOE gathers the requested data and information and determines how it will choose to proceed with the existing test procedure in light of such data and information.

## **II. Public Participation**

### **A. Submission of Comments**

DOE will accept comments, data, and information regarding this request no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via regulations.gov. The <http://www.regulations.gov> web page will require 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. 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 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 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 regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to 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 on 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 mail or hand delivery, please provide 139 all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will 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. According 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 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.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) 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. See 10 CFR 429.7. It is DOE's policy that all comments 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).

### III. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this request for information.

Issued in Washington, DC, on June 30, 2017

A handwritten signature in cursive script, reading "S. Chalk", is written above a solid horizontal line.

Steven Chalk

Acting Assistant Secretary

Energy Efficiency and Renewable Energy