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[6450-01-P]

DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE-2017-BT-STD-0022]

RIN 1904-AE47

Energy Conservation Program: Energy Conservation Standards for Certain Commercial and Industrial Equipment; Early Assessment Review; Automatic Commercial Ice Makers

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

ACTION: Request for information.

SUMMARY: The U.S. Department of Energy (“DOE”) is undertaking an early assessment review for amended energy conservation standards for automatic commercial ice makers (“ACIM”) 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 75 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-2017-BT-STD-0022, by any of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
2. *E-mail:* to ACIM2017STD0022@ee.doe.gov. Include the docket number EERE-2017-BT-STD-0022 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/#!docketDetail;D=EERE-2017-BT-STD-0022>. 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. Amelia Whiting, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 586-2588. E-mail: *Amelia.Whiting@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*.

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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, 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 the Energy Policy and Conservation Act, as amended (“EPCA”),¹ 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 an 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.

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).

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

EPCA, 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 C² of EPCA, added by Public Law 95-619, Title IV, section 441(a) (42 U.S.C. 6311-6317, as codified), established the Energy Conservation Program for Certain Industrial Equipment. This equipment includes ACIM, the subject of this document. (42 U.S.C. 6311(1)(F))

Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6311), test procedures (42 U.S.C. 6314), labeling provisions (42

² For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A-1.

U.S.C. 6315), energy conservation standards (42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316).

Federal energy efficiency requirements for covered equipment established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6316(a); 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 EPCA. (42 U.S.C. 6316(a); 42 U.S.C. 6297(d))

EPCA prescribed the initial energy and water conservation standards for ACIMs. (42 U.S.C. 6313(d)(1)) EPCA also authorizes DOE to establish new standards for ACIMs not covered by the statutory standards. (42 U.S.C. 6313(d)(2)) Not later than January 1, 2015, with respect to the standards established under 42 U.S.C. 6313(d)(1), and, with respect to the standards established under 42 U.S.C. 6313(d)(2), not later than 5 years after the date on which the standards take effect, EPCA required DOE to issue a final rule to determine whether amending the applicable standards is technologically feasible and economically justified. (42 U.S.C. 6313(d)(3)(A)) Not later than 5 years after the effective date of any amended standards under 42 U.S.C. 6313(d)(3)(A) or the publication of a final rule determining that amending the standards is not technologically feasible or economically justified, DOE must issue a final rule to determine whether amending the standards established under 42 U.S.C. 6313(d)(1) or the amended standards, as applicable, is technologically feasible or economically justified. (42 U.S.C.

6313(d)(3)(B)) A final rule issued under 42 U.S.C. 6313(d)(2) or (3) must establish standards at the maximum level that is technically feasible and economically justified, as provided in 42 U.S.C. 6295(o) and (p). (42 U.S.C. 6313(d)(4))

B. Rulemaking History

On October 18, 2005, DOE published a final rule codifying in the Code of Federal Regulations (“CFR”) the energy conservation standards and water conservation standards prescribed by EPCA in 42 U.S.C. 6313(d)(1) for certain automatic commercial ice makers manufactured on or after January 1, 2010. 70 FR 60407, 60415–60416. The codified statutory standards consisted of maximum energy use and maximum condenser water use, if applicable, to produce 100 pounds (“lb.”) of ice for ACIM with harvest rates between 50 and 2,500 lb. ice per 24 hours. *Id.* at 70 FR 60416. Most recently on January 28, 2015, in satisfaction of the first rulemaking cycle required by EPCA, DOE published a final rule adopting more-stringent energy conservation standards for certain classes of ACIM and establishing energy conservation standards for other classes of ACIM not previously subject to standards. 80 FR 4646 (the “January 2015 Final Rule”). The current energy conservation standards are located in 10 CFR 431.136(c) and (d), and specify the maximum energy use, in terms of kilowatt-hours (“kWh”) per 100 lb. of ice produced, and maximum condenser water use, in terms of gallons (“gal”) per 100 lb. of ice produced. The currently applicable DOE test procedures for ACIM appear at 10 CFR 431.134.

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 ACIM 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 ACIM 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

The energy conservation standards for ACIM established by DOE in the January 2015 Final Rule are expected to result in 0.064 quads of site energy savings, representing an 8 percent reduction in site energy use, relative to the base case without amended standards over a 30-year period.³ See 80 FR 4646, 4649; and the January 2015 Final

³ This estimate of 0.064 quads reflects site energy savings. The January 2015 Final Rule presented the 30-year energy savings estimate as 0.18 quads, reflecting full-fuel-cycle (“FFC”) energy savings. The FFC measure includes point-of-use (site) energy; the energy losses associated with generation, transmission, and

Rule Technical Support Document (“TSD”)⁴. Additionally, in the January 2015 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 0.051 additional quads of site energy savings.⁵ See 80 FR 4646, 4736; and the January 2015 Final Rule TSD. This represents a 7 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 ACIM.

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 max-tech level analysis from the January 2015 Final Rule is applicable to the current ACIM market and on

distribution of electricity; and the energy consumed in extracting, processing, and transporting or distributing primary fuels.

⁴ The January 2015 Final Rule TSD is available on <http://www.regulations.gov> in docket number EERE-2010-BT-STD-0037, document number 136. The docket also includes the spreadsheet used to conduct the national impact analysis, document number 131, as described in chapter 10 of the January 2015 Final Rule TSD.

⁵ This estimate of 0.051 additional quads of site energy savings reflects the difference in the cumulative national energy savings between the max-tech efficiency levels and the energy conservation standards established in the January 2015 Final Rule, when converted from full-fuel-cycle energy savings to site energy savings.

whether the previous estimates of energy savings at the max-tech level represent the savings that would be realized were DOE to establish future amended energy conservation standards at the max-tech level.

Issue 2: DOE seeks information on the January 2015 Final Rule analysis resulting in the energy savings estimates discussed in this section. Specifically, DOE requests comment and data on updates to the relevant analysis inputs, including stock of ACIMs, shipments since 2010, efficiency distributions, and the incorporation of various refrigerants in the models available on the market. DOE also requests data on market share by equipment class and refrigerant.

B. Technological Feasibility

During the January 2015 Final Rule, DOE considered a number of technology options that manufacturers could use to reduce energy consumption in ACIM. 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: ACIM 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.

Issue 4: DOE is aware that the range of available ACIM efficiencies has changed since the January 2015 Final Rule analysis. DOE requests comment and data regarding which design options are incorporated in equipment that may achieve higher efficiencies than those considered in the previous rulemaking analysis, including at a potentially updated max-tech efficiency level, and how any such design options or combinations of design options may impact the availability of equipment features or consumer utility. Additionally, DOE seeks information on any alternative approaches for achieving potential reductions in energy usage for ACIMs.

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 energy conservation standards. DOE also seeks comment and data on any other aspects of its economic justification analysis

from the January 2015 Final Rule that may indicate whether a more-stringent energy conservation standard would not be economically justified or cost effective.

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 5: DOE seeks input on whether frequency of repair differs for the design options that underlie max-tech efficiency levels when compared to baseline efficiency levels, and if and how installation costs would be affected by the presence of such design options in equipment.

Issue 6: DOE seeks input on whether 8.5 years, as estimated in the January 2015 Final Rule analysis (*see* 80 FR 4646, 4700-4701), is an appropriate lifetime for use in the economic analyses for all equipment classes.

III. Submission of Comments

DOE invites all interested parties to submit in writing by **[INSERT DATE 75 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 ACIM.

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 September 17, 2020, by Alexander N. Fitzsimmons, Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy, 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 September 17, 2020

9/17/2020

X Alexander N. Fitzsimmons

Signed by: ALEXANDER FITZSIMMONS
Alexander N. Fitzsimmons
Deputy Assistant Secretary for Energy Efficiency
Energy Efficiency and Renewable Energy