

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

#### 7 CFR Part 1780

RIN 0572-AC11

#### Amending the Water and Waste Program Regulations

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Rural Utilities Service (RUS), an agency delivering the United States Department of Agriculture's (USDA) Rural Development Utilities Programs, hereinafter referred to as Rural Development or the Agency, is amending its regulations to administer the Water and Waste Loan and Grant Programs. This action implements provisions of the 2008 Farm Bill for interest rates on direct loans and modifies the interest rate structure currently being used for the direct loan program. Interest rates on loans subject to 5 or 7 percent interest rate limitations (poverty and intermediate rates, respectively) will adjust with changes in the market rate. The poverty and intermediate interest rates will be established at rates equal to a percentage of current market yields for outstanding municipal obligations. The intended effect is to make part 1780 current with statutory authority.

In the final rules section of the **Federal Register**, the Agency is publishing this action as a direct final rule without prior proposal because Rural Development views this as a non-controversial action and anticipates no adverse comments. If no adverse comments are received in response to the direct final rule, no further action will be taken on this proposed rule, and the action will become effective at the time specified in the direct final rule. If the Agency receives adverse comments, a timely document will be published withdrawing the direct final rule and all public comments received will be addressed in a subsequent final rule based on this action.

**DATES:** Comments on this proposed action must be received by Rural Development or carry a postmark or equivalent no later than February 5, 2009.

**ADDRESSES:** You may submit comments to this rule by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. In the "Search Documents" box, enter RUS-08-Water-0005, check the box under the Search box labeled "Select to find documents accepting comments or submissions," and click on the GO>> key. To submit a comment, choose "Send a comment or submission," under the Docket Title. In order to submit your comment, the information requested on the "Public Comment and Submission Form," must be completed. (If you click on the hyperlink of the docket when the search returns it, you will see the docket details. Click on the yellow balloon to receive the "Public Comment and Submission Form.") Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "How to Use this Site" link.

- *Postal Mail/Commercial Delivery:* Please send your comment addressed to Michele Brooks, Director, Program Development and Regulatory Analysis, USDA Rural Development, STOP 1522, Room 5159, 1400 Independence Avenue, SW., Washington, DC 20250-1522. Please state that your comment refers to Docket No. RUS 08-Water-0005.

*Other Information:* Additional information about Rural Development and its programs is available at <http://www.rurdev.usda.gov/index.html>.

**FOR FURTHER INFORMATION CONTACT:** Cheryl Francis, Loan Specialist, Water and Environmental Programs, USDA Rural Development, STOP 1570, Room 2229 South Building, 1400 Independence Avenue, Washington, DC 20250-1570. Telephone: (202) 720-9589; FAX: (202) 690-0649; e-mail: [cheryl.francis@wdc.usda.gov](mailto:cheryl.francis@wdc.usda.gov).

**SUPPLEMENTARY INFORMATION:** See the **SUPPLEMENTARY INFORMATION** provided in the direct final rule located in the Rules and Regulations direct final rule section of the **Federal Register** for the applicable Supplementary Information on this action.

Dated: December 30, 2008.

**James M. Andrew,**

*Administrator, Rural Utilities Service.*

[FR Doc. E8-31377 Filed 1-5-09; 8:45 am]

**BILLING CODE 3410-15-P**

## DEPARTMENT OF ENERGY

### 10 CFR Part 431

[Docket No. EERE-2008-BT-STD-0015]

RIN 1904-AB86

#### Energy Efficiency Program for Consumer Products: Public Meeting and Availability of the Framework Document for Walk-In Coolers and Walk-In Freezers

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

**ACTION:** Notice of public meeting and availability of the framework document.

**SUMMARY:** The Department of Energy (DOE) is initiating the rulemaking to consider establishing energy conservation standards for walk-in coolers and walk-in freezers. Accordingly, DOE will hold an informal public meeting to discuss and receive comments on its planned analytical approach and issues it will address in this rulemaking proceeding. DOE welcomes written comments from the public on our stated approach for this rulemaking. To inform stakeholders and to facilitate this process, DOE has prepared a Framework Document which details the analytical approach and identifies several issues on which DOE is particularly interested in receiving comment. A copy of the Framework Document is available at: [http://www.eere.energy.gov/buildings/appliance\\_standards/commercial/walkinrefrigeration\\_equipment.html](http://www.eere.energy.gov/buildings/appliance_standards/commercial/walkinrefrigeration_equipment.html).

**DATES:** The Department will hold a public meeting on Wednesday, January 28, 2009, from 9 a.m. to 4 p.m. in Washington, DC. Any person requesting to speak at the public meeting should submit such request along with a signed original and an electronic copy of the statement to be given at the public meeting before 4 p.m., Wednesday, January 21, 2009. Written comments on the framework document are welcome, especially following the public meeting, and should be submitted by February 5, 2009.

**ADDRESSES:** The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 1E-245, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Please note that foreign nationals participating in the public meeting are subject to advance security screening procedures. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting Brenda Edwards at (202) 586-2945 so that the necessary procedures can be completed.

Stakeholders may submit comments, identified by docket number EERE-2008-BT-STD-0015 and/or Regulation Identifier Number (RIN) 1904-AB86, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:* [WICF-2008-STD-0015@ee.doe.gov](mailto:WICF-2008-STD-0015@ee.doe.gov). Include EERE-2008-BT-STD-0015 and/or RIN 1904-AB86 in the subject line of the message.

- *Mail:* Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, Framework Document for Walk-In Coolers and Walk-In Freezers, EERE-2008-BT-STD-0015 and/or RIN 1904-AB86, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Please submit one signed paper original.

- *Hand Delivery/Courier:* Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024. Please submit one signed paper original.

*Instructions:* All submissions received must include the agency name and docket number or RIN for this rulemaking found at the beginning of this notice.

*Docket:* For access to the docket to read background documents, a copy of the transcript of the public meeting, or comments received, go to the U.S. Department of Energy, Resource Room of the Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024, (202) 586-2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Brenda Edwards first at the above telephone number for additional information regarding visiting the Resource Room.

**FOR FURTHER INFORMATION CONTACT:**

Charles Llenza, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-2192. E-mail: [Charles.Llenza@ee.doe.gov](mailto:Charles.Llenza@ee.doe.gov).

Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC-72, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-9507. E-mail: [Michael.Kido@hq.doe.gov](mailto:Michael.Kido@hq.doe.gov).

For information on how to submit or review public comments and on how to participate in the public meeting, contact 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](mailto:Brenda.Edwards@ee.doe.gov).

**SUPPLEMENTARY INFORMATION:** Title III of the Energy Policy and Conservation Act of 1975 (EPCA) sets forth a variety of provisions designed to improve energy efficiency. Part A of Title III (42 U.S.C. 6291-6309) provides for the Energy Conservation Program for Consumer Products Other Than Automobiles.<sup>1</sup> Part A-1 of Title III (42 U.S.C. 6311-6317) establishes a similar program for "Certain Industrial Equipment," including walk-in coolers and walk-in freezers, the subject of this rulemaking.<sup>2</sup>

More recently, EPCA was amended by the Energy Independence and Security Act of 2007 (EISA), Public Law 110-140. In particular, section 312(a) of EISA amends section 340 of EPCA by adding in new subsection 340(20) (42 U.S.C. 6311(20)), which defines walk-in coolers and walk-in freezers. In addition, section 312(b) of EISA amends section 342 of EPCA by adding new subsection 342(f)(1) (42 U.S.C. 6313(f)(1)), which establishes prescriptive standards for walk-in coolers and freezers manufactured on or after January 1, 2009. Section 312 of EISA amends section 342 of EPCA by adding a new subsection 342(f)(2) (42 U.S.C. 6313(f)(2)), which establishes requirements for electronically commutated motors for walk-in coolers and freezers described in paragraph (f)(1)(E)(i). Section 312 of EISA amends section 342 of EPCA by adding new subsection 342(f)(3) (42 U.S.C. 6313(f)(3)), which establishes additional requirements for walk-in coolers or walk-in freezers with transparent reach-in doors manufactured on or after January 1, 2009. Section 312 of EISA amends section 342 of EPCA by adding new subsection 342(f)(4) (42 U.S.C. 6313(f)(4)), which directs the Secretary

<sup>1</sup> This part was originally titled Part B; however, it was redesignated Part A after Part B of Title III of EPCA was repealed by Public Law 109-58.

<sup>2</sup> This part was originally titled Part C; however, it was redesignated Part A-1 after Part B of Title III of EPCA was repealed by Public Law 109-58.

to issue by rule, no later than January 1, 2012, performance-based standards for walk-in coolers and walk-in freezers manufactured on or after 3 or 5 years after the final rule is published. These new requirements are the subjects of this Framework Document.

Additionally, section 312(c) of EISA amends section 343(a) of EPCA (42 U.S.C. 6314(a)) by adding new subsection 343(a)(9) (42 U.S.C. 6314(a)(9)), which establishes test procedure definitions for walk-in cooler and freezer and directs the Secretary to establish test procedures to measure the energy-use of walk-in coolers and walk-in freezers. Accordingly, DOE intends to propose such test procedures under a separate rulemaking.

To initiate this rulemaking to establish energy conservation standards for this equipment class, DOE has prepared a Framework Document to explain the issues, analyses, and processes it anticipates using for the development of energy conservation standards for walk-in coolers and walk-in freezers. As noted above, DOE will hold a public meeting on Wednesday, January 28, 2009 in Washington, DC, the main focus of which will be to discuss the analyses presented and issues identified in the Framework Document. At the public meeting, the Department will make a number of presentations, invite discussion on the rulemaking process as it applies to walk-in coolers and walk-in freezers, and solicit public comments, data, and information from participants and other stakeholders.

The Department encourages those who wish to participate in the public meeting to obtain the Framework Document and to be prepared to discuss its contents. A copy of the draft Framework Document is available at: [http://www.eere.energy.gov/buildings/appliance\\_standards/commercial/walkinrefrigeration\\_equipment.html](http://www.eere.energy.gov/buildings/appliance_standards/commercial/walkinrefrigeration_equipment.html).

Public meeting participants need not limit their comments to the issues identified in the Framework Document. The Department is also interested in receiving views concerning other relevant issues that participants believe would affect energy conservation standards for this equipment and applicable test procedures. Furthermore, the Department welcomes all interested parties, whether or not they participate in the public meeting, to submit in writing by February 5, 2009, comments and information on matters addressed in the Framework Document and on other matters relevant to consideration of standards for walk-in coolers and walk-in freezers.

The public meeting will be conducted in an informal, facilitated, conference

style. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by U.S. antitrust laws. A court reporter will record the proceedings of the public meeting, after which a transcript will be available on the above-referenced Web site.

After the public meeting and the close of the comment period on the Framework Document, DOE will begin collecting data, conducting the analyses as discussed in the Framework Document and at the public meeting, and reviewing the comments received.

DOE considers public participation to be a very important part of the process for setting energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of the rulemaking process. Beginning with the Framework Document, and during each subsequent public meeting and comment period, interactions with and between members of the public provide a balanced discussion of the issues to assist DOE with the standards rulemaking process. Accordingly, anyone who would like to participate in the public meeting, receive meeting materials, or be added to the DOE mailing list to receive future notices and information regarding this rulemaking on walk-in coolers and walk-in freezers, should contact Brenda Edwards at (202) 586-2945, or via e-mail at: [Brenda.Edwards@ee.doe.gov](mailto:Brenda.Edwards@ee.doe.gov).

Issued in Washington, DC, on December 24, 2008.

**John F. Mizroch,**

*Acting Assistant Secretary, Energy Efficiency and Renewable Energy.*

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BILLING CODE 6450-01-P

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Part 736

[Docket No. 0810231384-81391-01]

RIN 0694-XA15

#### Request for Public Comment on Foreign Produced Encryption Items That Are Made From U.S.-Origin Encryption Technology or Software

**AGENCY:** Bureau of Industry and Security.

**ACTION:** Notice of inquiry.

**SUMMARY:** To determine the appropriate extent and scope of U.S. export controls on foreign products that are the direct products of U.S.-origin encryption

technology or software, BIS is seeking information on the potential impact of controlling such foreign made items for Encryption Items ("EI") reasons under the EAR (i.e., those that are classified under ECCN 5A002 or 5D002) if the direct product of U.S.-origin ECCN 5E002 technology or ECCN 5D002 software. Specifically, BIS is requesting comments regarding the impact this control would have on both U.S. exporters of encryption technology and software and foreign manufacturers of products that are derived in whole or in part from U.S.-origin encryption technology or software.

**DATES:** Comments must be received no later than March 9, 2009.

**ADDRESSES:** Written comments may be submitted via <http://www.regulations.gov>; by e-mail directly to BIS at [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov); in hardcopy to U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. and Pennsylvania Ave., NW., Room H-2705, Washington, DC 20230; or by fax to 202-482-3355. Please input "0694-XA15" in the subject line of the written comments.

**FOR FURTHER INFORMATION CONTACT:** For General Information Contact: Sharron Cook, Office of Exporter Services, Regulatory Policy Division, Bureau of Industry and Security at 202-482-2440, or fax 202-482-3355, or e-mail at [scook@bis.doc.gov](mailto:scook@bis.doc.gov).

For Specific Encryption Related Information Contact: C. Randall Pratt, Information Technology Division, Office of National Security and Technology Transfer Controls at 202-482-0707 or E-Mail: [C.RandallPratt@bis.doc.gov](mailto:C.RandallPratt@bis.doc.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The Foreign-Produced Direct Product Rule is found in General Prohibition No. 3 under section 736.2(b)(3) of the Export Administration Regulations (EAR) and in section 734.3(a)(4) of the EAR, "Items Subject to the EAR."

Under section 736.2(b)(3)(ii)(A) of the EAR, a foreign-made item is considered a direct product of U.S. technology or software if it meets the following conditions, it is the direct product of technology or software that requires a written assurance as a supporting document for a license, as defined in paragraph (o)(3)(i) of Supplement No. 2 to part 748 of the EAR, or as a precondition for the use of License Exception TSR at section 740.6 of the EAR, and it is subject to national security controls as designated on the

applicable ECCN of the Commerce Control List at part 774 of the EAR.

Section 736.2(b)(3)(i) provides that if a foreign-made item is a direct product of U.S.-origin technology or software pursuant to the criteria set forth above, then it is subject to the EAR if it is exported from the country of manufacture to a destination in Country Group D:1 or E:2 (Cuba) of Supplement No. 1 to Part 740 of the EAR. General Prohibition 3 prohibits the reexport or export from abroad of items meeting the criteria of foreign direct products of U.S.-origin technology or software to Country Group D:1 destinations or Cuba unless authorization has been granted via a license or license exception.

Technology and software controlled under ECCN 5E002 and 5D002 of the Commerce Control List (CCL) (Supplement No. 1 to part 774 of the EAR) are subject to national security ("NS") controls. When the foreign-produced direct product of such technology or software would be classified under ECCN 5A002 or 5D002, it would meet the definition of "direct product" under section 736.2(b)(3)(ii)(A) of the EAR.

BIS is seeking information on the impact of making the foreign-produced direct product of U.S.-origin ECCN 5E002 technology or ECCN 5D002 software, classified under ECCN 5A002 or 5D002 subject to the EAR if exported from the country of manufacture to any destination (except the United States or Canada). All such foreign-produced direct product ECCN 5A002 or 5D002 hardware or software would be subject to the license requirements of sections 742.15 ("EI" encryption items) and 742.4 ("NS" national security), or to the review requirements of section 740.17 (License Exception ENC). Reporting requirements under section 740.17(e) would not apply to exports from the country of manufacture of foreign-produced direct products, as reporting is required only for export from the United States or reexports from Canada.

The possible revision described above would apply to the foreign direct product of ECCN 5E002 technology and 5D002 software exported under license, not to the foreign direct product of technology and software exported under License Exception ENC of section 740.17 of the EAR.

Under the current provisions of section 736.2(b)(3), if ECCN 5E002 technology is exported under an export license for purposes of offshore manufacture of an encryption item that has previously been submitted to the U.S. Government for technical review and has been made eligible for export under License Exception ENC, the