

Also, the Council would invest additional funds to explore new uses and applications for highbush blueberries in the domestic and international markets. Furthermore, the Council stated that it will use the additional resources to expand the health research studies.

Furthermore, the Council whose members represent all highbush blueberry producing states as well as importers voted to increase the assessment rate at its February 28, 2009, meeting. The vote to recommend the assessment increase was nine in favor and two against of the Council members present at the meeting. The two voters against the change expressed concern about how the growers might respond to an assessment increase given the overall economic climate the industry is facing and noted how an assessment increase might impact voting on the program continuance referendum in 2011. One of the two dissenters noted that in a meeting held in his region prior to the Council's meeting, the growers had discussed and supported the \$18 per ton assessment rate increase, but did not discuss the \$24 per ton increase. Accordingly, he did not feel comfortable voting for the change. Both dissenting voters stated that they were willing to support an \$18 per ton assessment increase instead of the proposed \$24 per ton.

The Council evaluated a media plan designed to advertise to consumers nationwide with a proposed rate of \$18 per ton on highbush blueberries. At this assessment rate level, the Council could continue to support its current market promotion efforts and add a \$1 million media budget for advertising. This level would result in 45 percent reach and a frequency of 4 of the target audience which is 18 million out of the 40 million of the United States population. The Council discussed the rate of \$18 per ton and determined that the highbush blueberry potential supply and demand situation would require a need to create greater awareness than the level that could be generated at \$18 per ton. Therefore, the Council voted to recommend the rate of \$24 per ton on highbush blueberries which is the first assessment increase since the Council was established in August 2000.

If adopted, the Council's recommended assessment rate would be applicable to the 2010 highbush blueberry crop. The higher assessment rate on the 2010 crop would generate additional dollars allocated for the 2011 budget year. The Council plans to increase the domestic marketing budget beginning that year to \$4 million which would allow for as much as \$2 million

allocation to advertising to increase the frequency of the Council's message. According to the Council, this increase would gain greater awareness for highbush blueberries.

This rule would amend the rules and regulations under the Order. The rate would increase the assessment from \$12 per ton to \$24 per ton on highbush blueberries. This proposed increase is consistent with section 517(d) of the Act that permits changes in the assessment rate through notice and comment procedures. Section 1218.52(c) of the Order state assessments can be levied at a rate of \$12 per ton on all highbush blueberries. The assessment rate will be reviewed and may be modified with the approval of the Secretary.

The Council is recommending the proposed assessment rate increase for the following reasons: (1) A potential gap between highbush blueberry demand and future supply in the United States; (2) efforts are necessary to strengthen the Council's existing consumer, food service, and food manufacturer publicity and export market promotion programs and add an advertising component to expand the reach and frequency of the highbush blueberry message; (3) the Council plans to invest additional revenue to explore new markets both domestic and international, as well as to explore new uses and application for highbush blueberries; (4) to expand its investment in more health research and move to human clinical trials to discover additional product attributes; and (5) added funding will allow for greater educational effort in the critical areas of good management practices and food safety. Accordingly, section 1218.52(c) of the Order would be revised.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments received in response to this rule by the date specified would be considered prior to finalizing this action.

#### List of Subjects in 7 CFR Part 1218

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Blueberry promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, Part 1218, Chapter XI of Title 7 is proposed to be amended as follows:

#### PART 1218—BLUEBERRY PROMOTION, RESEARCH, AND INFORMATION ORDER

1. The authority citation for 7 CFR part 1218 continues to read as follows:

**Authority:** 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

2. In § 1218.52, paragraph (c) is revised to read as follows:

#### § 1218.52 Assessments.

\* \* \* \* \*

(c) Such assessments shall be levied at a rate of \$24 per ton on all blueberries. The assessment rate will be reviewed, and may be modified with the approval of the Secretary, after the first referendum is conducted as stated in § 1218.71(b).

\* \* \* \* \*

Dated: July 21, 2009.

**David R. Shipman,**

*Associate Administrator, Agricultural Marketing Service.*

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## DEPARTMENT OF ENERGY

### 10 CFR Part 430

[Docket No. EERE–2008–BT–TP–0020]

RIN 1904–AB89

#### Energy Conservation Program for Consumer Products: Test Procedures for Residential Furnaces and Boilers

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

**ACTION:** Notice of proposed rulemaking and public meeting.

**SUMMARY:** In order to implement recent amendments to the Energy Policy and Conservation Act (EPCA), the U.S. Department of Energy (DOE) proposes to amend its test procedures for residential furnaces and boilers to provide for measurement of standby mode and off mode energy consumption. Specifically, the proposed amendments would incorporate into the DOE test procedures the International Electrotechnical Commission's (IEC) Standard 62301, *Household electrical appliances—Measurement of standby power* (First Edition 2005–06), as well as language to clarify application of this standard for measuring standby mode and off mode power consumption in furnaces and boilers. In addition, the proposed amendments would add new calculations to determine annual energy consumption associated with standby mode and off mode measured power. Finally, the amendments would modify existing energy consumption equations to integrate standby mode and off mode energy consumption into the calculation of overall annual energy consumption of

these products. DOE is also announcing a public meeting to discuss and receive comments on the issues presented in this notice.

**DATES:** DOE will hold a public meeting on Tuesday, August 18, 2009, from 9 a.m. to 4 p.m., in Washington, DC. DOE must receive requests to speak at the public meeting before 4 p.m., Tuesday, August 4, 2009. DOE must receive a signed original and an electronic copy of statements to be given at the public meeting before 4 p.m., Tuesday, August 11, 2009.

DOE will accept comments, data, and information regarding the notice of proposed rulemaking (NOPR) before and after the public meeting, but no later than October 13, 2009. For details, see section V, "Public Participation," of this NOPR.

**ADDRESSES:** The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E-089, 1000 Independence Avenue, SW., Washington, DC 20585-0121. To attend the public meeting, please notify Ms. Brenda Edwards at (202) 586-2945. Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. Any foreign national wishing to participate in the meeting should advise DOE as soon as possible by contacting Ms. Edwards to initiate the necessary procedures.

Any comments submitted must identify the NOPR on Test Procedures for Residential Furnaces and Boilers, and provide the docket number EERE-2008-BT-TP-0020 and/or regulatory information number (RIN) 1904-AB89. Comments may be submitted using any of the following methods:

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

2. *E-mail:* [RFB-2008-TP-0020@ee.doe.gov](mailto:RFB-2008-TP-0020@ee.doe.gov). Include docket number EERE-2008-BT-TP-0020 and/or RIN 1904-AB89 in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Please submit one signed paper original.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 6th Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024. Telephone: (202) 586-2945. Please submit one signed paper original.

For detailed instructions on submitting comments and additional information on the rulemaking process,

see section V, "Public Participation," of this document.

*Docket:* For access to the docket to read background documents or comments received, visit the U.S. Department of Energy, Resource Room of the Building Technologies Program, 6th 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 Ms. Brenda Edwards at the above telephone number for additional information about visiting the Resource Room.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mohammed Khan, 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) 586-7892. E-mail: [Mohammed.Khan@ee.doe.gov](mailto:Mohammed.Khan@ee.doe.gov).

Mr. Eric Stas, 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: [Eric.Stas@hq.doe.gov](mailto:Eric.Stas@hq.doe.gov).

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

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#### I. Background and Authority

Title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 *et seq.*; EPCA or the Act) sets forth a variety of provisions designed to improve energy efficiency. Part A of Title III (42 U.S.C. 6291-6309) establishes the "Energy Conservation Program for Consumer Products Other Than Automobiles," including residential furnaces and boilers (all of which are referenced below as "covered products").<sup>1</sup> (42 U.S.C. 6291(1)-(2) and 6292(a)(5))

Under the Act, this program consists essentially of three parts: (1) Testing; (2) labeling; and (3) establishing Federal energy conservation standards. The testing requirements consist of test procedures that manufacturers of covered products must use as the basis for certifying to DOE that their products comply with applicable energy conservation standards adopted under EPCA and for representing the efficiency of those products. Similarly, DOE must use these test procedures to

<sup>1</sup> All references to EPCA refer to the statute as amended through the Energy Independence and Security Act of 2007, Public Law 110-140.

determine whether the products comply with standards adopted under EPCA. Under 42 U.S.C. 6293, EPCA sets forth criteria and procedures for DOE's adoption and amendment of such test procedures. EPCA provides that "[a]ny test procedures prescribed or amended under this section shall 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, as determined by the Secretary [of Energy], and shall 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, with a comment period no less than 60 or more than 270 days. (42 U.S.C. 6293(b)(2)) Finally, in any rulemaking to amend a test procedure, DOE must determine "to what extent, if any, the proposed test procedure would alter the measured energy efficiency \* \* \* of any covered product as determined under the existing test procedure." (42 U.S.C. 6293(e)(1)) If DOE determines that the amended test procedure would alter the measured efficiency of a covered product, DOE must amend the applicable energy conservation standard accordingly. (42 U.S.C. 6293(e)(2))

On December 19, 2007, the Energy Independence and Security Act of 2007 (EISA 2007), Public Law 110-140, was enacted. The EISA 2007 amendments to EPCA, in relevant part, require DOE to amend the test procedures for all covered products to include measures of standby mode and off mode energy consumption. Specifically, section 310 of EISA 2007 provides definitions of "standby mode" and "off mode" (42 U.S.C. 6295(gg)(1)(A)); however, the statute permits DOE to amend these definitions in the context of a given product (42 U.S.C. 6295(gg)(1)(B)). The legislation requires integration of such energy consumption "into the overall energy efficiency, energy consumption, or other energy descriptor for each covered product, unless the Secretary determines that—

(i) The current test procedures for a covered product already fully account and incorporate the standby and off mode energy consumption of the covered product; or

(ii) Such an integrated test procedure is technically infeasible for a particular covered product, in which case the Secretary shall prescribe a separate standby mode and off mode energy use

test procedure for the covered product, if technically feasible." (42 U.S.C. 6295(gg)(2)(A)).

Under the statutory provisions introduced by EISA 2007, any such amendment must consider the most current versions of International Electrotechnical Commission (IEC) Standard 62301, *Household electrical appliances—Measurement of standby power*, (First Edition 2005–06) and IEC Standard 62087, *Methods of measurement for the power consumption of audio, video, and related equipment* (Second Edition, 2008–09).<sup>2</sup> *Id.* For residential furnaces and boilers, DOE must prescribe any such amendment to the test procedures by September 30, 2009. (42 U.S.C. 6295(gg)(2)(B)(iv))

DOE's current test procedure for residential furnaces and boilers is found at 10 CFR part 430, subpart B, appendix N, *Uniform Test Method for Measuring the Energy Consumption of Furnaces and Boilers*. DOE established its test procedures for furnaces and boilers in a final rule published in the **Federal Register** on May 12, 1997. 62 FR 26140. This procedure establishes a means for determining annual energy efficiency and annual energy consumption of gas-fired, oil-fired, and electric furnaces and boilers. It is important to note that gas-fired and oil-fired furnaces and boilers consume both fossil fuel and electricity. Electric furnaces and boilers only consume electricity. In this test procedure, fossil-fuel energy consumption is accounted for comprehensively over a full-year cycle, thereby satisfying EISA 2007 requirements for fossil-fuel standby mode and off mode energy consumption. However, electrical energy consumption in standby mode and off mode is not accounted for in the current test procedures.

## II. Summary of the Proposed Rule

First, today's NOPR tentatively concludes that, for gas-fired and oil-fired furnaces and boilers, the current test procedures already fully account for and incorporate the standby mode and off mode fossil-fuel energy consumption. (42 U.S.C. 6295(gg)(2)(A)(i))

Second, since standby mode and off mode electrical energy consumption are not included in the existing test procedures, today's NOPR proposes to amend the test procedures for residential furnaces and boilers to address the statutory requirement to incorporate standby mode and off mode

electrical energy consumption. Specifically, measurement procedures would be added, and annual energy consumption equations would be expanded to include standby mode and off mode electrical energy use. In addition, it is noted that one applicable energy efficiency descriptor (*i.e.*, Energy Factor) would automatically reflect incorporation of standby mode and off mode energy use, without the need for specific amendment.

In amending the current test procedures, DOE proposes to incorporate by reference IEC Standard 62301, *Household electrical appliances—Measurement of standby power* (First edition, 2005–06), regarding test conditions and testing procedures for measuring the average standby and off mode power.<sup>3</sup> DOE also proposes to incorporate into the test procedure clarifying definitions of "active mode," "standby mode," and "off mode" that are specific to furnaces and boilers but consistent with definitions for those terms set forth in the EISA 2007 amendments to EPCA. Further, DOE proposes to include in the test procedures additional language that would clarify the application of IEC Standard 62301 for measuring standby mode and off mode power consumption. (42 U.S.C. 6295(gg)(1)(A))

The EISA 2007 amendments to EPCA direct DOE to amend the furnace and boiler test procedures to integrate standby mode and off mode energy consumption into the overall energy efficiency, energy consumption, or other energy descriptor for these products, if technically feasible. If that is not technically feasible, DOE must instead prescribe a separate standby mode and off mode energy use test procedure, if technically feasible. (42 U.S.C. 6295(gg)(2)(A))<sup>4</sup> DOE believes that it is technically feasible to integrate standby mode and off mode energy consumption into the descriptors found in the existing furnace and boiler test procedures. Accordingly, today's

<sup>3</sup> EISA 2007 directs DOE to also consider IEC Standard 62087 when amending its test procedures to include standby mode and off mode energy consumption. See 42 U.S.C. 6295(gg)(2)(A). However, IEC Standard 62087 addresses the methods of measuring the power consumption of audio, video, and related equipment. As explained subsequently in this notice, the narrow scope of this particular IEC Standard reduces its relevance to today's proposal.

<sup>4</sup> In either case, for the reasons explained below, these new modes (*i.e.*, standby mode and off mode) would be fully accounted for in the residential furnace and boiler test procedure, but they might not be fully accounted for in the regulating metric (annual fuel utilization efficiency) set by statute. Instead, it may be necessary to specify integrated metrics by fuel type (*i.e.*, fossil fuel versus electricity).

<sup>2</sup> IEC standards are available for purchase at: <http://www.iec.ch>.

proposal would integrate standby mode and off mode energy consumption into the test procedures' overall annual energy consumption equations. However, it is important to note that DOE is not proposing amendments to the current regulating quotient specified under EPCA, Annual Fuel Utilization Efficiency (AFUE), because that metric currently accounts for fossil fuel energy consumption in standby mode and off mode but is not suitable for measurement of electrical energy consumption in those modes. (42 U.S.C. 6291(22)) A full discussion of the reasoning for not fully integrating standby and off mode energy into the current regulating quotient, AFUE, is provided in section III.F below.

EPCA provides that amendments to the test procedures that include standby mode and off mode energy consumption will not be used to determine compliance with previously established standards. (See 42 U.S.C. 6295(gg)(2)(C).) Furthermore, EPCA requires DOE to determine whether a proposed test procedure amendment would alter the measured efficiency of a product, and require adjusting existing standards. (42 U.S.C. 6293(e)) However, the current Federal energy conservation standards for furnaces and boilers utilize an energy efficiency descriptor that would be unaffected by the inclusion of new provisions in the test procedures meeting the requirements of EISA 2007 and pertaining to standby mode and off mode energy consumption. Therefore, today's notice would not affect a manufacturer's ability to demonstrate compliance with previously established standards.

These amended test procedures would become effective 30 days after the date of publication in the **Federal Register** of the final rule in this test procedures rulemaking. However, DOE's amended test procedure regulations codified in the CFR would clarify that the procedures and calculations for electrical standby mode and off mode energy consumption need not be performed to determine compliance with the current energy conservation standards for residential furnaces and boilers, because the current energy conservation standards do not account for electrical standby mode and off mode power consumption. Instead, manufacturers would be required to use the test procedures' electrical standby mode and off mode provisions to demonstrate compliance with DOE's energy conservation standards on the compliance date of any final rule establishing amended energy conservation standards for these

products that address standby mode and off mode power consumption.

### III. Discussion

#### A. EISA 2007 as Applied to Residential Furnaces and Boilers

As a first step in addressing the requirements of EISA 2007, the relevant terms and concepts from that statute need clarification as they apply to residential furnaces and boilers. While EISA 2007 provided definitions and concepts that are generally applicable and workable within the context of the existing furnace and boiler test procedure, some clarifying language is necessary to address the specific characteristics of the products relevant to this rulemaking. The following paragraphs discuss these proposed clarifications.

Section 310(3) of EISA 2007 defines "active mode" as "\* \* \* the condition in which an energy-using product—(I) is connected to a main power source; (II) has been activated; and (III) provides 1 or more main functions." (42 U.S.C. 6295(gg)(1)(A)(i)) This statutory definition of "active mode" is comparable to what is referred to as "on-cycle" in the current residential furnaces and boilers test procedures. (ANSI/ASHRAE Standard 103–1993, *Method of Testing for Annual Fuel Utilization Efficiency of Residential Central Furnaces and Boilers*) On-cycle is the period during the heating season when the furnace or boiler is performing its main function (*i.e.*, heat delivery). The heat delivery process begins with the activation of the burner or electric resistance heating element followed by, or simultaneous with, the activation of circulating fans or pumps, and ends with the deactivation of these components. As discussed in section III.G below, the duration of on-cycle can be estimated in the test procedure as burner operating hours (BOH).

In light of the above, DOE is proposing to add a definition of "active mode" in the furnace and boiler test procedure. See section 2.6 of Appendix N to subpart B of part 430.

Section 310(3) of EISA 2007 defines "standby mode" as "\* \* \* the condition in which an energy-using product—(I) is connected to a main power source; and (II) offers 1 or more of the following user oriented or protective functions: (aa) To facilitate the activation or deactivation of other functions (including active mode) by remote switch (including remote control), internal sensor, or timer. (bb) Continuous functions, including information or status displays (including clocks) or sensor-based functions." (42 U.S.C.

6295(gg)(1)(A)(iii)) The statutory definition of "standby mode" is comparable to what is referred to as "off-cycle" in the current residential furnace and boiler test procedure. The duration of off-cycle would be the total time during the heating season when the furnace or boiler is connected to power sources and not in active mode.

In light of the above, DOE is proposing to add a definition of "standby mode" in the furnace and boiler test procedure. See section 2.7 of Appendix N to subpart B of part 430.

Section 310(3) of EISA 2007 defines "off mode" as "\* \* \* the condition in which an energy-using product—(I) is connected to a main power source; and (II) is not providing any standby or active mode function." (42 U.S.C. 6295(gg)(1)(A)(ii)) For residential furnaces and boilers, off mode would be periods during the non-heating season where the furnace or boiler is connected to power sources but is not activated to provide heat. This period is called non-heating season in the test procedures.

In light of the above, DOE is proposing to add a definition of "off mode" in the furnace and boiler test procedure: See section 2.8 of Appendix N to subpart B of part 430.

DOE believes these proposed definitions provide the clarification necessary to carry out the requirements of EISA 2007 without unduly complicating matters by addressing possible inaccuracies such as those that might be caused by slight differences in run times for burners and air circulating fans. DOE requests comments on this approach for characterizing active, standby, and off mode operation of residential furnaces and boilers.

#### B. Gas and Oil Energy Consumption in the Furnace and Boiler Test Procedures

DOE is tentatively concluding that the existing test procedures for residential furnaces and boilers already fully account for and integrate standby mode and off mode fossil fuel energy consumption for gas-fired and oil-fired furnaces and boilers. Underlying the basis for this conclusion is the manner in which fossil fuel is accounted for in two of the test procedure's three annual efficiency metrics (*i.e.*, heating seasonal efficiency and AFUE). The third annual efficiency metric (Energy Factor), as mentioned above, has an accounting of electrical energy consumption for gas-fired and oil-fired furnaces and boilers and will be discussed in detail in preceding sections of this document.

The existing test procedure for gas-fired and oil-fired furnaces and boilers specifies a flue loss test that is augmented by calculations of jacket loss

and latent heat loss. Accordingly, the test procedure requires measurement of temperatures and percent concentration of carbon dioxide (CO<sub>2</sub>) in the flue. CO<sub>2</sub> measurements are used to infer how complete the combustion process is and how much excess air is passing through the appliance and into the flue. Temperature measurements are used to infer the value of the heat energy in this air flow through the flue. The product's fossil fuel and electric input is measured within a tolerance of the nameplate input.<sup>5</sup> As specified in the ASHRAE 103–1993, temperature and CO<sub>2</sub> measurements are taken during a sequencing of three standardized tests: (1) Steady-state; (2) cool-down; (3) and heat-up. These tests generally represent the cycling encountered when the furnace or boiler is in operation. The result is a uniform set of temperature and CO<sub>2</sub> measurements which can be used to capture the thermal performance of the tested unit. From this relatively limited set of test data, on-cycle and off-cycle losses are determined using integration coefficients and a complete suite of calculations that address various installations and design features. Additional testing and calculation may apply to some furnaces and boilers with certain design features (e.g., condensate collection for condensing units, and direct measurement of draft coefficients for units that restrict combustion side air flow during the off cycle).

The on-cycle and off-cycle losses, along with jacket loss and latent heat loss, are all expressed as a percentage loss relative to the input energy.

The resulting general format for the heating seasonal efficiency is as follows:  

$$\text{Eff}_{\text{hs}} = 100 - L_{\text{L,A}} - L_{\text{j}} - L_{\text{s, on}} - L_{\text{s, off}} - L_{\text{i, on}} - L_{\text{i, off}}$$

where:

$L_{\text{L,A}}$  = average latent heat loss of the fuel

$L_{\text{j}}$  = jacket heat loss

$L_{\text{s, on}}$  = on-cycle sensible heat loss<sup>6</sup>

$L_{\text{s, off}}$  = off-cycle sensible heat loss

$L_{\text{i, on}}$  = on-cycle infiltration loss<sup>7</sup>

$L_{\text{i, off}}$  = off-cycle infiltration loss

The test procedure's on-cycle and off-cycle are essentially identical in meaning to EISA 2007's "active mode" and "standby mode," respectively. There are some minor differences,

<sup>5</sup>Nameplate input is the energy supply rate in Btu's per hour which is physically listed on the tested furnace or boiler. Testing at this input would be the most appropriate and consistent way to specify a uniform test input rate.

<sup>6</sup>Sensible heat loss is the energy loss associated with the elevated temperature (as "sensed" by a thermometer) of the exiting flue gases.

<sup>7</sup>Infiltration loss is the energy loss associated with the added leakage a home would experience because of the exiting flue gases.

resulting from the nature of a flue loss methodology. For example, the  $L_{\text{s, off}}$  is the quantification of the sensible heat loss occurring during the off-cycle, not the energy input consumed during the off-cycle, which would more closely track the EISA 2007 "standby mode" definition. Nonetheless, the test procedure's on-cycle/off-cycle format, coupled with the clarifying definitions of "active mode" and "standby mode," provides a complete accounting of fossil fuel energy loss during the entire heating season. In EISA 2007 terminology, both active and standby modes of fossil fuel consumption are fully accounted for and integrated into the Heating Seasonal Efficiency descriptor.

A second efficiency descriptor, AFUE, includes an accounting of the non-heating season fossil fuel energy consumption (i.e., pilot light non-heating energy consumption). Non-heating season directly relates to the EISA 2007 definition of "off mode." Accordingly, AFUE provides a full accounting of fossil fuel off mode energy consumption pursuant to EISA 2007.

In addition to the efficiency descriptors discussed above, the test procedure's annual energy consumption calculations also represent a complete accounting of fossil fuel consumption.

In sum, the energy consumption equations in the existing test procedures are an entire year's accounting of fossil fuel consumption (i.e., 8,760 hours), which includes active, standby, and off mode energy consumption, as envisioned under EISA 2007.<sup>8</sup> Given that EISA 2007 does not prescribe any time periods over which to measure the energy consumption for all three modes, DOE believes it is reasonable to interpret the Act as permitting the consolidation of active, standby, and off modes together into an entire year's accounting.

In consideration of all of the above, and pursuant to section 310(2)(A)(i) of EISA 2007, DOE has tentatively concluded that the existing test procedures for residential furnaces and boilers already fully account for and integrate standby mode and off mode fossil-fuel energy consumption.

### C. Electrical Energy Accounting in the Existing Test Procedures for Gas-Fired and Oil-Fired Furnaces and Boilers

The treatment of electricity consumption in the test procedures for residential gas-fired and oil-fired furnaces and boilers begins with the measurement of full-load wattages of

major electrical components, referred to as "auxiliaries" in that document. These measurements are termed "PE" and "BE" in the test procedures. "PE" is the electric power to the power burner, and "BE" is the electrical power to the conditioned air blower for furnaces, or, electrical power to the circulating pump for boilers. A separate measure of power to the interrupted ignition device, "PE<sub>IG</sub>," is required if such device is present. These wattage values are used in calculations of annual energy consumption of electricity.

Estimation of annual electricity consumption from full-load wattages involves a complicated set of equations that estimate the expected annual hours of use or run hours for the electric auxiliaries. In performing such calculation, the test procedure begins with an estimate of the average burner operating hours that would be required to meet a representative annual heating demand. Generally, the auxiliary run hours would equal burner operating hours if there were no time delays or overruns for the auxiliaries. The test procedure requires measurement or assignment of time delays and overruns. The resulting proportioning of auxiliaries runtime to burner runtime is used to provide an estimate of annual electrical power consumption. For example, if a blower runs 10 percent more than the burner, the annual hours of blower runtime is 1.1 times the burner operating hours. The product of the blower runtime ratio, burner operating hours, and the measured wattage results in an estimate of annual electrical energy consumption for the blower.

A complicating factor is the heating effect provided by the electrical auxiliaries. Explaining further, if some of the heat produced by the electric auxiliaries is deemed useful heat to the house, this heat energy is credited in the burner operating hours calculation as useful heat. In performing such calculation, the test procedure first establishes which auxiliaries provide useful heat. For example, the blower fan on a forced air furnace is credited fully as useful heat. For indoor installed units, induced draft and forced draft fans are partially credited (differently) based on the efficiency of the motor.<sup>9</sup> The partial credit relates to the determination of whether the heat caused by the electric motor inefficiencies contributes to heating a space. For units installed in isolated combustion systems, no useful heat is

<sup>8</sup>Each year comprises 8,760 hours—i.e., (365 days/year) × (24 hours/day) = 8,760 hours/year.

<sup>9</sup>An induced draft fan draws air into the combustion chamber. In contrast, a forced draft fan forces air into the combustion chamber.

ascribed to induced draft or forced draft fans. After these determinations and assignments, the test procedure calculates the adjusted burner operating hours that reflect the offset of heating load attributed to the useful heating effect of the electrical auxiliaries.

The annual fuel consumption, “ $E_F$ ,” which is adjusted for electrical heat offset, and annual auxiliary electrical energy consumption, “ $E_{AE}$ ,” are then used to calculate annual operating cost. Additionally,  $E_F$  and  $E_{AE}$  are used in an energy efficiency descriptor, Energy Factor (EF). Energy Factor is the ratio of useful output provided by the fossil fuel to the total site energy consumption.

This characterization of the electric auxiliaries for gas-fired and oil-fired furnaces and boilers is best described in EISA 2007 terminology as “active mode.” The accounting done in the existing test procedures only reflects the “on” period of the electric auxiliaries. There is no measurement or accounting of the electricity used in standby mode or off mode in the existing test procedures for gas-fired and oil-fired furnaces and boilers. Accordingly, in this notice, DOE is proposing added measurement provisions and expanded calculation procedures to account for electricity used in standby mode and off mode.

#### *D. Electrical Energy Accounting in the Existing Test Procedures for Electric Furnaces and Boilers*

The existing test procedure for electric furnaces and boilers requires a measurement of full-load electrical input ( $E_{in}$ ). This value is then used to calculate annual energy consumption and costs. The efficiency is assumed to be 100 percent for indoor units, because it is assumed all input energy is delivered to the heated space as useful heat. The efficiency for outdoor units is reduced by an assigned or measured jacket loss.

As with fossil-fueled furnaces and boilers, the measurement of  $E_{in}$  and the associated accounting is best described in EISA 2007 terminology as “active mode.” There is no measurement or accounting of standby mode or off mode in the existing test procedures for electric furnaces and boilers. Accordingly, in this notice, DOE is proposing added measurement provisions and expanded calculation procedures to account for electricity used in standby mode and off mode.

#### *E. Proposed Amendments*

Because the current test procedures do not account for electricity consumption in standby mode and off mode, the residential furnace and boiler

test procedures require amendment. First, measurements for standby mode and off mode electrical consumption rates (*i.e.*, wattages) are needed. To this end, DOE proposes to add a new subsection to the furnace and boiler test procedure. Specifically, separate measurements of standby mode and off mode wattages would be added to section 8.0, *Test procedure*, of 10 CFR part 430, subpart B, appendix N. These provisions would reference IEC Standard 62301 for the measurement methodology itself. The added section would require only one measurement of wattage if there is no difference between standby mode and off mode. Separate measurements would be required if a difference is expected. Clarification as to the requirement for separate measurements is provided in the discussion in section III.I.

Second, the test procedure needs to specify the method for calculation of the annual standby mode and off mode electric energy consumption from the measured wattages. To this end, DOE proposes to add a new calculation subsection in section 10, *Calculation of derived results from test measurements*, of 10 CFR part 430, subpart B, appendix N. The proposed new subsection would be designated as 10.9, *Average annual electric standby and off mode energy consumption*. This added subsection would determine mode hours consistent with the annual accounting already in the furnace and boiler test procedure (*i.e.*, the 8,760 hours accounting). Specifically, off mode hours would be assigned the current test procedure’s value for non-heating season hours (4,600 hours; see ASHRAE 103–1993, section 11.2.12). “Standby mode hours” would be defined as the difference between the test procedure’s value for heating season hours (4,160 hours, *i.e.*, the numerical difference between total hours in a year and non-heating season hours) and the active mode hours. Active mode hours would be estimated as the tested unit’s burner operating hours (BOH) for fossil-fueled furnaces and boilers, as discussed in section III.F below. Electric furnaces and boilers do not have a test procedure value for burner operating hours, so a calculated estimate of electric furnace and boiler active mode hours would be provided in this new subsection, as discussed in section III.G below.

Third, because it is technically feasible to do so, the test procedures must integrate the annual standby mode and off mode energy consumption into the existing calculations for annual energy consumption. To this end, DOE proposes to modify the equations in existing section 10.2.3, *Annual auxiliary*

*electrical energy consumption for gas and oil fueled furnaces or boilers*, section 10.3, *Average annual electric energy consumption for electric furnaces and boilers*, 10.5.2 *Average annual auxiliary electrical energy consumption for gas or oil-fueled furnaces and boilers located in a different geographic region of the United States and in buildings with different design heating requirements*, and section 10.5.3, *Average annual electric energy consumption for electric furnaces and boilers located in a different geographic region of the United States and in buildings with different design heating requirements*. The proposed modifications would simply add the calculated annual standby mode and off mode electrical energy consumption to the existing calculations of annual electrical energy consumption. No changes to the current regulating quotient, AFUE, are proposed.

Finally, definitions would be added, as discussed in section III.A above, to clarify the application of these amendments.

An important implication resulting from these proposed modifications is that for fossil-fueled furnaces and boilers, the electrical standby mode and off mode energy consumption would be integrated automatically into the efficiency descriptor Energy Factor. Energy Factor is the ratio of annual fuel output of useful heat delivered to the heated space to the total annual energy consumption of both fossil fuel and electricity. Because annual electrical consumption would be increased due to the inclusion of standby mode and off mode consumption, the Energy Factor numerical value for residential furnaces and boilers will decrease.

#### *F. Proposed Amendments’ Relationship With Energy Conservation Standards, and Overall Discussion of Electrical Energy Use in Energy Conservation Standards for Residential Furnaces and Boilers*

Section 310 of EISA 2007 requires two distinct activities relative to standby mode and off mode energy use. First, test procedures for all covered products must be amended to incorporate a means for measuring standby mode and off mode energy use, if such means are not already incorporated, by September 30, 2009. Second, any revised or new energy conservation standard adopted after July 1, 2010 must incorporate standby mode and off mode energy use by a single amended or new standard, if feasible; if that is not feasible, the standby mode and off mode energy use

shall be regulated under a separate standard. (42 U.S.C. 6295(gg)(3))

The current energy conservation standard for residential furnaces and boilers is expressed in terms of AFUE, defined in 42 U.S.C. 6291(20) as the efficiency descriptor from the test procedures prescribed in section 6293. The definition of "efficiency descriptor" at 42 U.S.C. 6291(22) specifically identifies AFUE as the regulatory metric for furnaces. DOE prescribed an amended AFUE-based standard for furnaces and boilers in 2007. 72 FR 65136 (Nov. 19, 2007). As noted above, AFUE is a specific test procedure efficiency descriptor that does not incorporate any active, standby, or off mode electricity consumption. Since EISA 2007 requires any energy conservation standard adopted after July 1, 2010 to incorporate standby mode and off mode energy use, any future furnace/boiler energy conservation standard adopted after July 1, 2010 based solely on the existing AFUE equation would not satisfy the requirements of EISA 2007.

Therefore, the current rulemaking proposes amendments to the furnace and boiler test procedures that fully address the first EISA 2007 requirement to include standby mode and off mode energy consumption into the test procedures. Specifically, today's notice proposes to add new measurement procedures and to expand the annual energy consumption equations to include electrical standby mode and off mode energy use. (As discussed earlier in section III.B above, the current test procedure and AFUE already incorporate standby and off mode energy consumption applicable to fossil fuel use.) In the proposed amendments, electrical standby mode is defined as the off period during the heating season, and off mode is defined as the entire non-heating season. Taken together, these proposed amendments, when coupled with what is already measured in the existing procedures, would provide a full year's accounting of the energy consumption that section 310 of EISA 2007 requires each test procedure to include.

As mentioned above in III.F, in addition to this energy consumption accounting, one of the energy efficiency descriptors for these products (*i.e.*, Energy Factor) would automatically reflect incorporation of electrical standby mode and off mode energy use without the need for specific amendment. This is because annual electricity consumption, which would be amended to include standby mode and off mode energy consumption and to provide a more comprehensive

measurement, is part of the Energy Factor quotient. This increase in the calculated annual electrical consumption would, in turn, reduce slightly the Energy Factor numerical value. Energy Factor, as a stand-alone measurement, is not currently used to set standards for this product.

In addition, EISA 2007 amended 42 U.S.C. 6295(f)(4)(D) to require the Secretary to consider and prescribe furnace energy conservation standards or energy use standards for electricity used for purposes of circulating air through ductwork by December 31, 2013. (42 U.S.C. 6295(f)(4)(D)). DOE notes that there is some ambiguity associated with the language of this statutory provision. This language might appear to some as requiring DOE to prescribe a limited, separate standard that only addresses the active mode electricity used by the circulating fan on furnaces. Interpreting the statutory text in this manner would exclude the electricity energy consumption of boilers and the electricity consumption of furnace auxiliaries other than circulating fans. Although DOE plans to consider the scope of the statutory mandate under 42 U.S.C. 6295(f)(4)(D) in a subsequent standards rulemaking, today's proposed test procedure amendments are expected to be capable of addressing the range of electricity-consuming components for these products. Standard-setting issues, including any necessary additional test procedure modifications subsequently identified, will be fully addressed in that later standards rulemaking.

#### *G. Active Mode Hours Approximated by Burner Operating Hours for Gas-Fueled or Oil-Fueled Furnaces and Boilers*

As mentioned above in section III.E, today's proposal would assume that active mode hours of a particular furnace or boiler are equal to its burner operating hours (BOH). BOH is a calculated value in the existing test procedure for residential gas-fueled and oil-fueled furnaces and boilers. 10 CFR Part 430, Subpart B, Appendix N, section 10.2. BOH is determined by a complicated calculation procedure that starts with an estimate of the expected annual heating load and deduces the burner on hours necessary to generate the annual heating load.

BOH is exactly the active mode hours for the burner itself. However, the blower and other electric auxiliaries may have different active mode hours because of intentional time delays and overruns. To some, this might indicate a need to separately account for the standby mode and off mode energy use for each electrical auxiliary. As

explained below, although these differences in active mode hours are accounted for in the test procedures, a separate accounting of each auxiliary's standby mode and off mode energy consumption is impracticable. For most furnaces and boilers, a single measured standby electrical wattage cannot be attributed to a particular auxiliary. In other words, since most furnaces and boilers have multiple electrical components, the measured standby mode or off mode wattage cannot easily be parsed out among multiple electrical components even if the exact active mode run hours for each component are known. The most precise approach to address this problem would be to abandon the BOH assumption of active mode for all auxiliaries and measure separately all the possible combinations of auxiliaries in active mode and ascribe different active mode hours and corresponding standby mode hours for each combination. However, such approach would result in a major increase in measurement and calculation complexity.

In addition, a possible slight inaccuracy resulting from the BOH assignment for active mode hours would have an insignificant effect on the overall accounting of standby mode and off mode energy consumption considering the order of magnitude difference between standby mode and off mode hours compared to active mode hours. For example, assuming a representative average BOH of 800 hours, the corresponding standby mode and off mode hours would be 7,960 hours (8,760 – 800)—a one percent error in BOH is a 0.1 percent error in standby mode and off mode accounting. Therefore, considering the impracticability of separate accounting of each auxiliary with no significant improvement in accuracy, DOE maintains that assigning active mode hours for all electrical auxiliaries as burner operating hours is appropriate and reasonable.

#### *H. Active Mode Hours for Electric Furnaces and Boilers*

The test procedures for residential electric furnaces and boilers do not have a calculation for burner operating hours. Since there is only one energy source and the efficiency is simply assigned, the current test procedure for electric furnaces and boilers calculates annual energy consumption directly from input energy measurements. Therefore, the option to use the test procedure value of burner operating hours to approximate active mode hours is not applicable. Today's proposal would include a separate calculation to estimate active

mode hours for electric furnaces and boilers. The calculation is simply the quotient of the expected annual heating load (in Btu's) and the measured electrical input (in Btu's/hour). This results in an estimate of active mode hours which is consistent with the EISA 2007 definitions, and, since this calculation is nearly identical to that used for gas-fueled and oil-fueled furnaces and boilers, the resulting estimate is essentially equivalent to BOH for gas-fueled and oil-fueled furnaces and boilers.

#### *I. Measurement of Standby Mode and Off Mode Wattages*

Today's proposed amendments allow for a single wattage measurement to serve as both standby mode wattage and off mode wattage. DOE has tentatively concluded that this is a reasonable approach when there is expected to be no difference between the two modes in terms of wattage. This would be the case for most furnace and boiler designs where the appliance is not disconnected from the electric power source or where there is an absence of some other condition that would affect standby mode and off mode wattage. The utilization of a seasonal off switch would be a case where a reduction or elimination of off mode wattage compared to standby mode wattage can be expected. On units so equipped, a separate measurement of off mode wattage would be required, and a zero wattage for off mode would be a distinct possibility. Although DOE is not currently aware of some other factor or condition that might affect a difference between standby mode and off mode, a separate measure of off mode wattage would also be required anytime the wattages are known to differ.

DOE believes the phrases "reduction or elimination" and "seasonal off switch" are unambiguous and clear enough to direct the testing official as to when a separate measurement of off mode wattage is needed. DOE invites comments on the appropriateness and workability of these provisions.

#### *J. Incorporation by Reference of IEC Standard 62301 (First Edition 2005-06) for Measuring Standby Mode and Off Mode Power Consumption in Furnaces and Boilers*

As noted previously, EPCA, as amended by EISA 2007, requires that test procedures "shall be amended pursuant to section 323 to include standby mode and off mode energy consumption, taking into consideration the most current versions of Standards 62301 and 62087 of the International Electrotechnical Commission. \* \* \*

(42 U.S.C. 6295(gg)(2)(A)). Today's proposed amendments would reference IEC Standard 62301 in terms of the methodology to obtain the standby mode and off mode measured wattage. The proposed test procedure amendments would use these measured wattages in calculations to accomplish the incorporation of standby mode and off mode energy consumption into the test procedures. DOE reviewed IEC Standard 62301 and sees no need to modify or eliminate any existing IEC provisions. IEC Standard 62301's provisions pertaining to supply voltage waveform and power measurement accuracy apply to any measurement of low electrical power, including the low power measurement expected during furnace and boiler standby mode and off mode operation. The IEC Standard 62301 is concise and well organized and should not pose a significant burden to the furnace and boiler manufacturers or the associated testing industry.

DOE also reviewed IEC Standard 62087, which specifies methods of measurement for the power consumption of television receivers, video cassette recorders, set top boxes, audio equipment, and multi-function equipment for consumer use. IEC Standard 62087 does not, however, include measurement for the power consumption of appliances such as furnaces. Therefore, DOE determined that IEC Standard 62087 was not applicable to this rulemaking.

Finally, DOE recognizes that the IEC is currently developing an updated test procedure, IEC Standard 62301 (Ed. 2.0), which would include definitions of "off mode," "network connected standby mode," and "disconnected mode," and which would also revise the current IEC Standard 62301 definition of "standby mode." Given the definitions proposed in this NOPR which are tailored to address furnaces and boilers, DOE does not believe that these IEC modifications would likely impact or improve the amendments proposed here, because the measurement provisions of IEC Standard 62301, which are needed to implement EISA 2007 for furnaces and boilers, are not expected to change appreciably. Therefore, DOE does not plan to wait for such amendments, particularly given the upcoming statutory deadline. Thus, DOE plans to use the current version of IEC Standard 62301 in today's proposed test procedure. After the final rule is published, further amendments to the referenced IEC standard by the standard-setting organization would become part of the DOE test procedure only if DOE subsequently amends the

test procedure to incorporate them through a separate rulemaking.

#### *K. Compliance With Other EPCA Requirements*

EPCA requires that "[a]ny test procedures prescribed or amended under this section shall 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 shall not be unduly burdensome to conduct." (42 U.S.C. 6293(b)(3)). For the reasons that follow, DOE believes that the incorporation of IEC Standard 62301, along with the modifications and additional calculations described above, would satisfy this requirement.

Today's proposed amendments to the DOE test procedure would incorporate a test standard that is widely accepted and used internationally to measure electric power in standby mode and off mode. Based on its analysis of IEC Standard 62301, DOE determined that the test methods and equipment that the amendment would require for measuring standby power do not differ substantially from the test methods and equipment in the current DOE test procedure for furnaces and boilers. Therefore, testing of furnaces and boilers pursuant to today's proposed amendments would not require any significant investment in test facilities or new equipment. In addition, the 8,760-hour accounting described above constitutes a full accounting of the annual energy consumption for furnaces and boilers. For these reasons, DOE has concluded that the amended test procedure would produce test results that yield energy consumption values of a covered product during a representative period of use, and that the test procedure would not be unduly burdensome to conduct.

#### **IV. Procedural Requirements**

##### *A. Review Under Executive Order 12866*

Today's regulatory action is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this proposed action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

##### *B. Review Under the Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation



of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE's procedures and policies may be viewed on the Office of the General Counsel's Web site (<http://www.gc.doe.gov>).

DOE reviewed today's proposed rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. This proposed rule prescribes amendments to test procedures that will be used to test compliance with energy conservation standards for the products that are the subject of this rulemaking. The proposed rule affects residential furnace and boiler test procedures.

DOE has tentatively concluded that the proposed rule would not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act. The proposed rule would amend DOE's test procedures by incorporating testing provisions to address standby mode and off mode energy consumption. The only possible impact is the added cost to conduct the measurements required in the IEC Standard 62301. As discussed in section III.K above, this would not represent a substantial burden to any manufacturer of furnaces and boilers, small or large.

In addition, the Small Business Administration (SBA) considers an entity to be a small business if, together with its affiliates, it employs fewer than a threshold number of workers specified in 13 CFR part 121, which relies on size standards and codes established by the North American Industry Classification System (NAICS). The threshold number for NAICS classification for 333415, which applies to Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing (including residential furnaces and boilers manufacturers) is 750 employees.<sup>10</sup> DOE reviewed the Air-Conditioning, Heating, and Refrigeration Institute's Directory of

Certified Product Performance for Residential Furnaces and Boilers (2009),<sup>11</sup> the ENERGY STAR Product Databases for Gas and Oil Furnaces (May 15, 2009),<sup>12</sup> the California Energy Commission's Appliance Database for Residential Furnaces and Boilers,<sup>13</sup> and the Consortium for Energy Efficiency's Qualifying Furnace and Boiler List (April 2, 2009).<sup>14</sup> From this review, DOE found there were approximately 25 small businesses within the furnace and boiler industry. Even though there are a significant number of small businesses within the furnace and boiler industry, DOE does not believe the test procedure amendments described in this proposed rule would represent a substantial burden to any manufacturer, including small manufacturers, as explained above. DOE requests comments on its characterization of the residential furnace and boiler industry in terms of the number of and impacts on small businesses.

For these reasons, DOE certifies that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE will transmit the certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the SBA for review under 5 U.S.C. 605(b).

#### C. Review Under the Paperwork Reduction Act of 1995

This rulemaking will impose no new information collection or recordkeeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

#### D. Review Under the National Environmental Policy Act of 1969

In this proposed rule, DOE proposes test procedure amendments that it expects will be used to develop and implement future energy conservation standards for residential furnaces and

boilers. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this rule amends an existing rule without changing its environmental effect, and, therefore, is covered by the Categorical Exclusion in 10 CFR part 1021, subpart D, appendix A, paragraph A5. Today's proposed rule would not affect the amount, quality, or distribution of energy usage, and, therefore, would not result in any environmental impacts.<sup>15</sup> Accordingly, neither an environmental assessment nor an environmental impact statement is required.

#### E. Review Under Executive Order 13132

Executive Order 13132, "Federalism," imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. 64 FR 43255 (August 4, 1999). The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States, and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process that it will follow in developing such regulations. 65 FR 13735. DOE examined this proposed rule and determined that it would not preempt State law and would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, no further action is required to comply with Executive Order 13132.

#### F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general

<sup>11</sup> The Air-Conditioning, Heating, and Refrigeration Institute, Directory of Certified Product Performance, June 2009: <http://www.ahridirectory.org/ahridirectory/pages/home.aspx>.

<sup>12</sup> The U.S. Environmental Protection Agency and the U.S. Department of Energy, ENERGY STAR Furnaces—Product Databases for Gas and Oil Furnaces, May 15, 2009: [http://www.energystar.gov/index.cfm?c=furnaces.pr\\_furnaces](http://www.energystar.gov/index.cfm?c=furnaces.pr_furnaces).

<sup>13</sup> The California Energy Commission, Appliance Database for Residential Furnaces and Boilers, 2009: <http://www.appliances.energy.ca.gov/QuickSearch.aspx>.

<sup>14</sup> Consortium of Energy Efficiency, Qualifying Furnace and Boiler List, April 2, 2009: <http://www.ceedirectory.org/ceedirectory/pages/cee/ceeDirectoryInfo.aspx>.

<sup>15</sup> Categorical Exclusion A5 provides: "Rulemaking interpreting or amending an existing rule or regulation that does not change the environmental effect of the rule or regulation being amended."

<sup>10</sup> U.S. Small Business Administration, Table of Small Business Size Standards, August 22, 2008: [http://www.sba.gov/idc/groups/public/documents/sba\\_homepage/serv\\_sstd\\_tablepdf.pdf](http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf).

duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation specifies the following: (1) The preemptive effect, if any; (2) any effect on existing Federal law or regulation; (3) a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) the retroactive effect, if any; (5) definitions of key terms; and (6) other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or whether it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of Executive Order 12988.

#### *G. Review Under the Unfunded Mandates Reform Act of 1995*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4; 2 U.S.C. 1501 *et seq.*) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish estimates of the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect such governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. (The policy is also available at

<http://www.gc.doe.gov>). Today's proposed rule contains neither an intergovernmental mandate nor a mandate that may result in an expenditure of \$100 million or more in any year, so no further action is required under UMRA.

#### *H. Review Under the Treasury and General Government Appropriations Act, 1999*

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105-277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. Today's proposed rule would have no impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

#### *I. Review Under Executive Order 12630*

DOE has determined, under Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," 53 FR 8859 (March 18, 1988), that this regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

#### *J. Review Under the Treasury and General Government Appropriations Act, 2001*

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed today's notice and concluded that it is consistent with applicable policies in the OMB and DOE guidelines.

#### *K. Review Under Executive Order 13211*

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA a Statement of Energy Effects for any proposed significant energy action. The definition of a "significant energy action" is any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2)

is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the proposal is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's regulatory action is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy. It has likewise not been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

#### *L. Review Under Section 32 of the Federal Energy Administration Act of 1974*

Under section 301 of the DOE Organization Act (Pub. L. 95-91; 42 U.S.C. 7101 *et seq.*), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977 (FEAA) (15 U.S.C. 788). Section 32 essentially provides that, where a proposed rule authorizes or requires use of commercial standards, the rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition.

The proposed rule would modify the test procedure for residential furnaces and boilers by incorporating testing methods contained in the commercial standard, IEC Standard 62301. DOE has evaluated this standard and is unable to conclude whether it fully complies with the requirements of section 32(b) of the FEAA (*i.e.*, whether it was developed in a manner that fully provides for public participation, comment, and review). DOE will consult with the Attorney General and the Chairman of the FTC about the impact on competition of using the methods contained in this standard before prescribing a final rule.

## **V. Public Participation**

### *A. Attendance at Public Meeting*

The time, date, and location of the public meeting are listed in the **DATES**

and **ADDRESSES** sections at the beginning of this NOPR. To attend the public meeting, please notify Ms. Brenda Edwards at (202) 586-2945. As explained in the **ADDRESSES** section, foreign nationals visiting DOE Headquarters are subject to advance security screening procedures.

#### *B. Procedure for Submitting Requests to Speak*

Anyone who has an interest in today's notice, or who represents a group or class of persons with an interest in these issues, may request an opportunity to make an oral presentation at the public meeting. Such persons may hand-deliver requests to speak to the address shown in the **ADDRESSES** section at the beginning of this notice between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Requests may also be sent by mail or e-mail to: Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121, or [Brenda.Edwards@ee.doe.gov](mailto:Brenda.Edwards@ee.doe.gov). Persons who wish to speak should include in their request a computer diskette or CD in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this rulemaking and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

DOE requests persons scheduled to make an oral presentation to submit an advance copy of their statements at least one week before the public meeting. DOE may permit persons who cannot supply an advance copy of their statement to participate, if those persons have made advance alternative arrangements with the Building Technologies Program. Requests to give an oral presentation should ask for such alternative arrangements.

#### *C. Conduct of Public Meeting*

DOE will designate a DOE official to preside at the public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with 5 U.S.C. 553 and section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. After the public meeting, interested parties may submit further comments on the proceedings as well as on any aspect of

the rulemaking until the end of the comment period.

DOE will conduct the public meeting in an informal conference style. DOE will present summaries of comments received before the public meeting, allow time for presentations by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a prepared general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit other participants to comment briefly on any general statements. At the end of all prepared statements on each specific topic, DOE will permit participants to clarify their statements briefly and to comment on statements made by others.

Participants should be prepared to answer DOE's and other participants' questions. DOE representatives may also ask participants about other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, if time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

DOE will make the entire record of this proposed rulemaking, including the transcript from the public meeting, available for inspection at the U.S. Department of Energy, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024, (202) 586-9127, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Copies of the transcript are available for purchase from the transcribing reporter.

#### *D. Submission of Comments*

DOE will accept comments, data, and information regarding the proposed rule before or after the public meeting, but no later than the date provided at the beginning of this notice. Comments, data, and information submitted to DOE's e-mail address for this rulemaking should be provided in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format. Stakeholders should avoid the use of special characters or any form of encryption, and wherever possible comments should include the electronic signature of the author. Comments, data, and information submitted to DOE via mail or hand delivery/courier should include one signed paper original. No telefacsimiles (faxes) will be accepted.

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 two copies: one copy of the document that includes all of the information believed to be confidential, and one copy of the document with that information deleted. DOE will determine the confidential status of the information and treat it accordingly.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include the following: (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 was previously made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person that 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.

#### *E. Issues on Which DOE Seeks Comment*

DOE is particularly interested in receiving comments and views of interested parties on the following issues:

##### 1. Incorporation of IEC Standard 62301

DOE invites comments on the adequacy and appropriateness of IEC Standard 62301 in general, and whether there is a need to modify or depart from the provisions in the IEC Standard 62301 with regard to residential furnaces and boilers.

##### 2. Measurement of Standby Mode and Off Mode Wattages

To avoid unnecessary measurement burden, today's proposed amendments allow a single measurement to serve as both standby mode and off mode wattages. DOE invites comments on the appropriateness and workability of these provisions.

##### 3. Proposed Amendments' Relationship With Energy Conservation Standards for Residential Furnaces and Boilers

DOE believes today's proposed residential furnace and boiler test procedure amendments are sufficient to allow for implementation of EISA 2007-related energy conservation standards requirements for residential furnaces and boilers (e.g., the added provisions will allow a subsequent standard to address standby mode and off mode energy consumption). DOE invites comment on the overall issue of the test procedure's ability to measure

electricity use (active mode as well as standby mode and off mode) in the context of residential furnace and boiler efficiency standards.

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on July 9, 2009.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE proposes to amend part 430 of chapter II of title 10 of the Code of Federal Regulations, to read as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

2. Section 430.3 is amended by adding paragraph (k)(3) to read as follows:

§ 430.3 Materials incorporated by reference.

\* \* \* \* \*

(k) \* \* \*

(3) IEC 62301, “Household electrical appliances—Measurement of standby power,” (First Edition 2005–06).

\* \* \* \* \*

3. Appendix N to subpart B of part 430 is amended as follows:

- a. Adding new introductory text.
b. In section 2.0 Definitions, by adding new sections 2.5, 2.6, 2.7, 2.8, and 2.9.
c. In section 8.0 Test procedure, by adding new section 8.6.
d. In section 9.0 Nomenclature, by adding three new text items at the end of the section.
e. In section 10.0 Calculation of derived results from test measurements, by:
1. Revising sections 10.2.3, 10.2.3.1, 10.2.3.2, 10.3, 10.5.2, 10.5.3; and
2. Adding new section 10.9.
The additions and revisions read as follows:

Appendix N to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Furnaces and Boilers

The procedures and calculations in sections 8.6 and 10.9 of this appendix N need not be performed to determine compliance with energy conservation standards for furnaces and boilers.

\* \* \* \* \*

2.0. Definitions.

\* \* \* \* \*

2.5 IEC 62301 means the test standard published by the International Electrotechnical Commission (IEC), titled “Household electrical appliances—Measurement of standby power,” Publication 62301 (First Edition 2005–06). (Incorporated by reference, see § 430.3.)

2.6. Active mode means the condition during the heating season in which the furnace or boiler is connected to the power source, and either the burner, electric resistance elements, or any electrical auxiliaries such as blowers or pumps, are activated.

2.7 Standby mode means the condition during the heating season in which the furnace or boiler is connected to the power source, and neither the burner, electric resistance elements, nor any electrical auxiliaries such as blowers or pumps, are activated.

2.8 Off mode means the condition during the non-heating season in which the furnace or boiler is connected to the power source, and neither the burner, electric resistance elements, nor any electrical auxiliaries such as blowers or pumps, are activated.

2.9 Seasonal off switch means the switch on the furnace or boiler that, when activated, results in a measurable change in energy consumption between the standby and off modes.

\* \* \* \* \*

8.0 Test Procedure.

\* \* \* \* \*

8.6 Measurement of electrical standby and off mode power.

8.6.1 Standby power. With all electrical components of the furnace or boiler not activated, measure the standby power (P\_SB) in accordance with the procedures in IEC 62301 (incorporated by reference, see § 430.3). Utilize the accuracy and precision specifications in IEC Standard 62301 in lieu of those in ASHRAE Standard 103–1993. Measure the wattage so that all possible standby mode wattage for the entire appliance is recorded, not just the standby mode wattage of a single auxiliary.

8.6.2 Off mode power. If the unit is equipped with a seasonal off switch or there is an expected difference between off mode power and standby mode power, measure off mode power (P\_OFF) in accordance with the standby power procedures in IEC 62301 (incorporated by reference, see § 430.3). Utilize the accuracy and precision specifications in IEC Standard 62301 in lieu of those in ASHRAE Standard 103–1993. Measure the wattage so that all possible off mode wattage for the entire appliance is recorded, not just the off mode wattage of a

single auxiliary. If there is no expected difference in off mode power and standby power, let P\_OFF = P\_SB, in which case no separate measurement of off mode power is necessary.

9.0. Nomenclature.

\* \* \* \* \*

E\_SO = Average annual electric standby and off mode energy consumption, in kilowatt-hours

P\_OFF = Furnace or boiler off mode power, in watts

P\_SB = Furnace or boiler standby mode power, in watts

10.0 Calculation of derived results from test measurements.

\* \* \* \* \*

10.2.3 Average annual auxiliary electrical energy consumption for gas or oil-fueled furnaces or boilers. For furnaces and boilers equipped with single stage controls the average annual auxiliary electrical consumption (E\_AE) is expressed in kilowatt-hours and defined as:

E\_AE = BOH\_SS(y\_P PE + y\_IG PE\_IG + y\_BE) + E\_SO

Where:

- BOH\_SS = as defined in 10.2.1 of this appendix
PE = as defined in 10.2.1 of this appendix
y\_P = as defined in 10.2.1 of this appendix
y\_IG = as defined in 10.2.1 of this appendix
PE\_IG = as defined in 10.2.1 of this appendix
y = as defined in 10.2.1 of this appendix
BE = as defined in 10.2.1 of this appendix
E\_SO = as defined in 10.9 of this appendix

10.2.3.1 For furnaces or boilers equipped with two stage controls, E\_AE is defined as:

E\_AE = BOH\_R(y\_P PE\_R + y\_IG PE\_IG + y\_BE\_R) + BOH\_H(y\_P PE\_H + y\_IG PE\_IG + y\_BE\_H) + E\_SO

Where:

- BOH\_R = as defined in 10.2.1.2 of this appendix
y\_P = as defined in 10.2.1 of this appendix
PE\_R = as defined in 9.1.2.2 and measured at the reduced fuel input rate, of ANSI/ASHRAE Standard 103–1993
y\_IG = as defined in 10.2.1 of this appendix
PE\_IG = as defined in 10.2.1 of this appendix
y = as defined in 10.2.1 of this appendix
BE\_R = as defined in 9.1.2.2 of ANSI/ASHRAE Standard 103–1993, measured at the reduced fuel input rate
BOH\_H = as defined in 10.2.1.3 of this appendix
PE\_H = as defined in 9.1.2.2 of ANSI/ASHRAE Standard 103–1993, measured at the maximum fuel input rate
BE\_H = as defined in 9.1.2.2 of ANSI/ASHRAE Standard 103–1993, measured at the maximum fuel input rate
E\_SO = as defined in 10.9 of this appendix

10.2.3.2 For furnaces or boilers equipped with step modulating controls, E\_AE is defined as:

E\_AE = BOH\_R(y\_P PE\_R + y\_IG PE\_IG + y\_BE\_R) + BOH\_H(y\_P PE\_H + y\_IG PE\_IG + y\_BE\_H) + E\_SO

Where:

- BOH\_R = as defined in 10.2.1.2 of this appendix
y\_P = as defined in 10.2.1 of this appendix
PE\_R = as defined in 9.1.2.2 of ANSI/ASHRAE Standard 103–1993, measured at the reduced fuel input rate
y\_IG = as defined in 10.2.1 of this appendix

PE<sub>IG</sub> = as defined in 10.2.1 of this appendix  
 y = as defined in 10.2.1 of this appendix  
 BE<sub>R</sub> = as defined in 9.1.2.2 of ANSI/ASHRAE  
 Standard 103–1993, measured at the  
 reduced fuel input rate

BOH<sub>M</sub> = as defined in 10.2.1.4 of this  
 appendix

PE<sub>H</sub> = as defined in 9.1.2.2 of ANSI/ASHRAE  
 Standard 103–1993, measured at the  
 maximum fuel input rate

BE<sub>H</sub> = as defined in 9.1.2.2 of ANSI/ASHRAE  
 Standard 103–1993, measured at the  
 maximum fuel inputs rate

E<sub>SO</sub> = as defined in 10.9 of this appendix

10.3 Average annual electric energy  
 consumption for electric furnaces or boilers.

E<sub>E</sub> = 100(2,080)(0.77)DHR/(3.412 AFUE) +  
 E<sub>SO</sub>

Where:

100 = to express a percent as a decimal

2,080 = as specified in 10.2.1 of this  
 appendix

0.77 = as specified in 10.2.1 of this appendix

DHR = as defined in 10.2.1 of this appendix  
 3.412 = conversion to express energy in terms  
 of watt-hours instead of Btu

AFUE = as defined in 11.1 of ANSI/ASHRAE  
 Standard 103–1993, in percent, and  
 calculated on the basis of: ICS  
 installation, for non-weatherized warm  
 air furnaces; indoor installation, for non-  
 weatherized boilers; or outdoor  
 installation, for furnaces and boilers that  
 are weatherized

E<sub>SO</sub> = as defined in 10.9 of this appendix

\* \* \* \* \*

10.5.2 Average annual auxiliary electrical  
 energy consumption for gas or oil-fueled  
 furnaces and boilers located in a different  
 geographic region of the United States and in  
 buildings with different design heating  
 requirements. For gas or oil-fueled furnaces  
 and boilers, the average annual auxiliary  
 electrical energy consumption for a specific  
 geographic region and a specific typical  
 design heating requirement (E<sub>AER</sub>) is  
 expressed in kilowatt-hours and defined as:

E<sub>AER</sub> = (E<sub>AE</sub> – E<sub>SO</sub>) (HLH/2080) + E<sub>SOR</sub>

Where:

E<sub>AE</sub> = as defined in 10.2.3 of this appendix

E<sub>SO</sub> = as defined in 10.9 of this appendix

HLH = as defined in 10.5.1 of this appendix  
 2,080 = as specified in 10.2.1 of this  
 appendix

E<sub>SOR</sub> = as specified in 10.5.3 of this appendix

10.5.3 Average annual electric energy  
 consumption for electric furnaces and boilers  
 located in a different geographic region of the  
 United States and in buildings with different  
 design heating requirements. For electric  
 furnaces and boilers, the average annual  
 electric energy consumption for a specific  
 geographic region and a specific typical  
 design heating requirement (E<sub>ER</sub>) is expressed  
 in kilowatt-hours and defined as:

E<sub>ER</sub> = 100(0.77) DHR HLH/(3.412 AFUE) +  
 E<sub>SOR</sub>

Where:

100 = as specified in 10.3 of this appendix

0.77 = as specified in 10.2.1 of this appendix

DHR = as defined in 10.2.1 of this appendix

HLH = as defined in 10.5.1 of this appendix  
 3.412 = as specified in 10.3 of this appendix

AFUE = as defined in 10.3 of this appendix

E<sub>SOR</sub> = E<sub>SO</sub> as defined in 10.9 of this  
 appendix, except that in the equation for  
 E<sub>SO</sub> the term BOH is multiplied by the  
 expression (HLH/2080) to get the  
 appropriate regional accounting of  
 standby mode and off mode loss

\* \* \* \* \*

10.9 Average annual electrical standby  
 and off mode energy consumption. Calculate  
 the annual electrical standby mode and off  
 mode energy consumption (E<sub>SO</sub>) in kilowatt-  
 hours, defined as:

E<sub>SO</sub> = ((P<sub>SB</sub> \* (4,160 – BOH)) + (P<sub>OFF</sub> \* 4,600))  
 \* K

Where:

P<sub>SB</sub> = furnace or boiler standby mode power,  
 in watts, as measured in Section 8.6

4,160 = average heating season hours per year

P<sub>OFF</sub> = furnace or boiler off mode power, in  
 watts, as measured in Section 8.6

4,600 = average non-heating season hours per  
 year

K = 0.001 kWh/Wh, conversion factor for  
 watt-hours to kilowatt-hours

BOH = total burner operating hours as  
 calculated in section 10.2 for gas or oil-  
 fired furnaces or boilers. Where for gas  
 or oil-fueled furnaces and boilers  
 equipped with single-stage controls BOH  
 = BOH<sub>SS</sub>, for gas or oil-fueled furnaces  
 and boilers equipped with two-stage  
 controls BOH = (BOH<sub>R</sub> + BOH<sub>H</sub>) and for  
 gas or oil-fueled furnaces and boilers  
 equipped with step-modulating controls  
 BOH = (BOH<sub>R</sub> + BOH<sub>M</sub>). For electric  
 furnaces and boilers, BOH =  
 100(2,080)(0.77)DHR/(E<sub>in</sub> 3.412)(AFUE)

Where:

100 = to express a percent as a decimal

2,080 = as specified in 10.2.1 of this  
 appendix

0.77 = as specified in 10.2.1 of this appendix

DHR = as defined in 10.2.1 of this appendix

3.412 = conversion to express energy in terms

of Kbtu instead of kilowatt-hours

AFUE = as defined in 11.1 of ANSI/ASHRAE  
 Standard 103–1993, (incorporated by  
 reference, see § 430.3) in percent

E<sub>in</sub> = Steady state electric rated power, in  
 kilowatts, from section 9.3 of ANSI/  
 ASHRAE Standard 103–1993

[FR Doc. E9–17555 Filed 7–24–09; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2009–0512; Airspace  
 Docket No. 09–AGL–9]

#### Proposed Amendment of Class E Airspace; Platteville, WI

AGENCY: Federal Aviation  
 Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking  
 (NPRM).

**SUMMARY:** This action proposes to  
 amend Class E airspace at Platteville,  
 WI. Additional controlled airspace is  
 necessary to accommodate new  
 Standard Instrument Approach  
 Procedures (SIAPs) at Platteville  
 Municipal Airport, Platteville, WI. This  
 action would also reflect the name  
 change of the airport from Grant County  
 Airport and update the geographic  
 coordinates to coincide with the FAA's  
 National Aeronautical Charting Office.  
 The FAA is taking this action to  
 enhance the safety and management of  
 Instrument Flight Rules (IFR) operations  
 for SIAPs at Platteville Municipal  
 Airport.

**DATES:** 0901 UTC. Comments must be  
 received on or before September 10,  
 2009.

**ADDRESSES:** Send comments on this  
 proposal to the U.S. Department of  
 Transportation, Docket Operations, 1200  
 New Jersey Avenue, SE., West Building  
 Ground Floor, Room W12–140,  
 Washington, DC 20590–0001. You must  
 identify the docket number FAA–2009–  
 0512/Airspace Docket No. 09–AGL–9, at  
 the beginning of your comments. You  
 may also submit comments through the  
 Internet at <http://www.regulations.gov>.  
 You may review the public docket  
 containing the proposal, any comments  
 received, and any final disposition in  
 person in the Dockets Office between 9  
 a.m. and 5 p.m., Monday through  
 Friday, except Federal holidays. The  
 Docket Office (telephone 1–800–647–  
 5527), is on the ground floor of the  
 building at the above address.

**FOR FURTHER INFORMATION CONTACT:**  
 Scott Enander, Central Service Center,  
 Operations Support Group, Federal  
 Aviation Administration, Southwest  
 Region, 2601 Meacham Blvd, Fort  
 Worth, TX 76137; telephone: (817) 321–  
 7716.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested parties are invited to  
 participate in this proposed rulemaking  
 by submitting such written data, views,  
 or arguments, as they may desire.  
 Comments that provide the factual basis  
 supporting the views and suggestions  
 presented are particularly helpful in  
 developing reasoned regulatory  
 decisions on the proposal. Comments  
 are specifically invited on the overall  
 regulatory, aeronautical, economic,  
 environmental, and energy-related  
 aspects of the proposal.

Communications should identify both  
 docket numbers and be submitted in  
 triplicate to the address listed above.  
 Commenters wishing the FAA to  
 acknowledge receipt of their comments