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DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket Number EERE-2011-BT-CE-0077]

RIN: 1904-AC68

Energy Conservation Program: Enforcement of Regional Standards for Residential Furnaces and Central Air Conditioners and Heat Pumps

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

ACTION: Notice of Data Availability (NODA).

SUMMARY: The U.S. Department of Energy (DOE or the Department) has developed three separate possible approaches to enforcement of regional standards for residential furnaces and residential central air conditioners and heat pumps set forth by direct final rule published in the **Federal Register** on June 27, 2011. The Department is considering these three approaches, or a combination of elements in these approaches, as a framework for developing an enforcement plan for regional standards. DOE seeks comment on the approaches to inform the rulemaking for enforcement of regional energy efficiency standards for residential furnaces and residential central air conditioners and heat pumps. DOE also seeks comment on a possible waiver process for regional standards applicability.

DATES: DOE will hold a public meeting on December 16, 2011, from 9 a.m. to 4 p.m., in Washington, DC. The meeting will also be broadcast as a webinar. See “Public Participation,” for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

DOE will accept comments, data, and information regarding this NODA before and after the public meeting, but no later than **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. See “Public Participation,” for details.

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. To attend, 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. Brenda Edwards at (202) 586-2945 to initiate the necessary procedures.

Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE-2011-BT-CE-0077, by any of the following methods:

- E-mail: to EnforcementFunCAC-2011-CE-0077@ee.doe.gov. Include EERE-2011-BT-CE-0077 in the subject line of the message.

- Mail: Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Revisions to Energy Efficiency Enforcement Regulations, EERE-2011-BT-CE-0077, Independence Avenue, SW., Washington, DC 20585– 0121. Phone: (202) 586–2945. Please submit one signed paper original.
- Hand Delivery/Courier: Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 6th Floor, 950 L’Enfant Plaza, SW., Washington, DC 20024. Phone: (202) 586–2945. Please submit one signed paper original.

Instructions: All submissions received must include the agency name and docket number or RIN for this document.

Docket: For access to the docket to read background documents, or comments received, go to the Federal eRulemaking Portal at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information may be sent to Ms. Ashley Armstrong, 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. E-mail: Ashley.Armstrong@ee.doe.gov, and Ms. Laura Barhydt, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–32, 1000 Independence Avenue, SW, Washington, DC 20585. Telephone: (202) 287–5772. E-mail: Laura.Barhydt@hq.doe.gov.

SUPPLEMENTARY INFORMATION: The Energy Independence and Security Act (EISA) of 2007 modified the Energy Policy and Conservation Act (EPCA) to authorize DOE to consider regional standards for certain products if the regional standards can save significantly more energy than a national standard and are economically justified. Specifically, DOE was authorized to establish up to two additional regional standards for central air conditioners and heat pumps and one additional standard for furnaces in addition to national standards. (42 U.S.C. 6295(o)(6)(B)(ii))

EISA 2007 requires DOE to initiate an enforcement rulemaking not later than 90 days after the issuance of a final rule that establishes a regional standard. (42 U.S.C. 62905(o)(6)(G)(ii)(I)) EISA 2007 also requires that a final rule for enforcement be issued not later than 15 months after the final rule that establishes a regional standard. (42 U.S.C. 62905(o)(6)(G)(ii)(III))

On June 27, 2011, DOE promulgated a direct final rule for these products that established regional standards. 76 F R 37549. In addition to the current base national standard, DOE established one additional regional standard for furnaces and two additional regional standards for central air conditioners and heat pumps. The Department published a notice of effective date and compliance dates for the direct final rule on October 31, 2011 (76 FR 67037), requiring compliance for non-weatherized furnaces on May 1, 2013, and for weatherized furnaces and central air conditioners and heat pumps on January 1, 2015.

The Department has developed three possible approaches to enforcement of regional energy conservation standards for residential furnaces and residential central air conditioners and heat pumps. Each approach includes a description of the obligations that would be imposed upon manufacturers, distributors, and contractors in the product supply chain. The Department is considering these approaches or some combination of these approaches as a framework for developing a proposed enforcement scheme for regional standards. Stakeholders are encouraged to review the approaches and submit comments on each approach, including the different aspects of each approach.

In addition, the Department discusses how the compliance dates apply to various parties such as manufacturers, distributors and contractors. The Department also seeks comment on a possible waiver process to permit installation of units to do not meet the applicable regional standard in limited circumstances.

Purpose: The purpose of this NODA is to inform stakeholders of three possible approaches for enforcement of regional energy efficiency standards for residential furnaces and residential central air conditioners and heat pumps and to solicit feedback from stakeholders on these approaches. Respondents are advised that this NODA is for information purposes only. DOE plans to use the information gathered through this NODA in developing a proposed rule for public comment.

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 document. If you plan to attend the public meeting, please notify Ms. Brenda Edwards at (202) 586-2945 or Brenda.Edwards@ee.doe.gov. As explained in the **ADDRESSES** section, foreign nationals visiting DOE Headquarters are subject to advance security screening procedures.

In addition, you can attend the public meeting via webinar. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website at http://www1.eere.energy.gov/buildings/appliance_standards/certification_enforcement.html. Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has plans to present a prepared general statement may request that copies of his or her statement be made available at the public meeting. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this notice. The request and advance copy of statements must be received at least one week before the public meeting and may be emailed, hand-delivered, or sent by mail. DOE prefers to receive requests and advance copies via email. Please include a telephone number to enable DOE staff to make a follow-up contact, if needed.

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 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.

The public meeting will be conducted in an informal, conference style. DOE will present summaries of comments received before the public meeting, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this NODA. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as 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.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this notice. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this notice before or after the public meeting, but no later than the date provided in the **DATES** section at the beginning of this notice. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this notice.

Submitting comments via regulations.gov. The regulations.gov web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

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

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

DOE processes submissions made through regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover

letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments

Include contact information each time you submit comments, data, documents, and other information to DOE. Email submissions are preferred. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

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

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

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: one copy of the

document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

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

E. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this NODA, DOE has identified a number of issues that it is particularly interested in receiving comments and views of interested parties. These are presented in the framework document.

Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of data availability.

List of Subjects in 10 CFR part 429

Energy conservation, Household appliances, Reporting and recordkeeping requirements.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports.

Issued in Washington, DC on November 29, 2011.

Kathleen B. Hogan
Deputy Assistant Secretary for Energy Efficiency
Office of Technology Development
Energy Efficiency and Renewable Energy

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