

rulemaking to determine whether a more stringent standard would result in additional energy conservation and be technologically feasible and economically justified, and, in subpar. (B), establishment of an amended standard, including factors to be considered, if a rule had been issued pursuant to a subpar. (A) determination and prohibition of an amended standard which would decrease energy efficiency or would likely result in the unavailability of a product type.

Subsec. (a)(6)(B)(iii). Pub. L. 110-140, §306(c), added cl. (iii) at end.

Subsec. (a)(7). Pub. L. 110-140, §314(b)(3), (4)(A), in introductory provisions, inserted “(other than single package vertical air conditioners and single package vertical heat pumps)” after “heating equipment” and struck out “manufactured on or after January 1, 2010,” before “shall meet”.

Subsec. (a)(7)(A) to (C). Pub. L. 110-140, §314(b)(4)(B), substituted “For equipment manufactured on or after January 1, 2010, the” for “The”.

Subsec. (a)(7)(D). Pub. L. 110-140, §314(b)(4)(C), added subpar. (D).

Subsec. (a)(8), (9). Pub. L. 110-140, §314(b)(3), inserted “(other than single package vertical air conditioners and single package vertical heat pumps)” after “heating equipment” in introductory provisions.

Subsec. (a)(10). Pub. L. 110-140, §314(b)(5), added par. (10).

Subsec. (b)(2) to (4). Pub. L. 110-140, §313(b)(1), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (f). Pub. L. 110-140, §312(b), added subsec. (f). 2005—Subsec. (a). Pub. L. 109-58, §136(b)(1), substituted “Small, large, and very large” for “Small and large” in heading.

Subsec. (a)(1). Pub. L. 109-58, §136(b)(2), inserted “but before January 1, 2010,” after “January 1, 1994,” in introductory provisions.

Subsec. (a)(2). Pub. L. 109-58, §136(b)(3), inserted “but before January 1, 2010,” after “January 1, 1995,” in introductory provisions.

Subsec. (a)(6)(A). Pub. L. 109-58, §136(b)(4)(A), designated existing provisions as cl. (i), substituted “January 1, 2010” for “October 24, 1992”, inserted “and very large commercial package air conditioning and heating equipment, or if ASHRAE/IES Standard 90.1, as in effect on October 24, 1992, is amended with respect to any” after “large commercial package air conditioning and heating equipment,”, and added cl. (ii).

Subsec. (a)(6)(C)(ii). Pub. L. 109-58, §136(b)(4)(B), inserted “and very large commercial package air conditioning and heating equipment” after “large commercial package air conditioning and heating equipment”.

Subsec. (a)(7) to (9). Pub. L. 109-58, §136(b)(5), added pars. (7) to (9).

Subsecs. (c) to (e). Pub. L. 109-58, §136(c)–(e), added subsecs. (c) to (e).

1992—Pub. L. 102-486 amended section generally, substituting present provisions for former provisions requiring Secretary to conduct evaluations of electric motors and pumps and other industrial equipment for purposes of determining standards.

#### EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by section 10(a)(3), (4) of Pub. L. 112-210 effective as if included in the Energy Independence and Security Act of 2007, Pub. L. 110-140, see section 10(a)(13) of Pub. L. 112-210, set out as a note under section 6291 of this title.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-140, title III, §313(b)(2), Dec. 19, 2007, 121 Stat. 1569, provided that: “The amendments made by paragraph (1) [amending this section] take effect on the date that is 3 years after the date of enactment of this Act [Dec. 19, 2007].”

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

## § 6314. Test procedures

### (a) Prescription by Secretary; requirements

#### (1) TEST PROCEDURES.—

(A)<sup>1</sup> AMENDMENT.—At least once every 7 years, the Secretary shall conduct an evaluation of each class of covered equipment and—

(i) if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of paragraphs (2) and (3), shall prescribe test procedures for the class in accordance with this section; or

(ii) shall publish notice in the Federal Register of any determination not to amend a test procedure.

(2) Test procedures prescribed in accordance with this section shall be reasonably designed to produce test results which reflect energy efficiency, energy use, and estimated operating costs of a type of industrial equipment (or class thereof) during a representative average use cycle (as determined by the Secretary), and shall not be unduly burdensome to conduct.

(3) If the test procedure is a procedure for determining estimated annual operating costs, such procedure shall provide that such costs shall be calculated from measurements of energy use in a representative average-use cycle (as determined by the Secretary), and from representative average unit costs of the energy needed to operate such equipment during such cycle. The Secretary shall provide information to manufacturers of covered equipment respecting representative average unit costs of energy.

(4)(A) With respect to small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, very large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks to which standards are applicable under section 6313 of this title, the test procedures shall be those generally accepted industry testing procedures or rating procedures developed or recognized by the Air-Conditioning, Heating, and Refrigeration Institute or by the American Society of Heating, Refrigerating and Air Conditioning Engineers, as referenced in ASHRAE/IES Standard 90.1 and in effect on June 30, 1992.

(B) If such an industry test procedure or rating procedure for small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, very large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, or unfired hot water storage tanks is amended, the Secretary shall amend the test procedure for the product as necessary to be consistent with the amended industry test procedure or rating procedure unless the Secretary determines, by rule, published in the Federal

<sup>1</sup> So in original. No subpar. (B) has been enacted.

Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures described in paragraphs (2) and (3) of this subsection.

(C) If the Secretary prescribes a rule containing such a determination, the rule may establish an amended test procedure for such product that meets the requirements of paragraphs (2) and (3) of this subsection. In establishing any amended test procedure under this subparagraph or subparagraph (B), the Secretary shall follow the procedures and meet the requirements specified in section 6293(e) of this title.

(5)(A) With respect to electric motors to which standards are applicable under section 6313 of this title, the test procedures shall be the test procedures specified in NEMA Standards Publication MG1-1987 and IEEE Standard 112 Test Method B for motor efficiency, as in effect on October 24, 1992.

(B) If the test procedure requirements of NEMA Standards Publication MG-1987 and IEEE Standard 112 Test Method B for motor efficiency are amended, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such amended test procedure requirements unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures described in paragraphs (2) and (3) of this subsection.

(C) If the Secretary prescribes a rule containing such a determination, the rule may establish amended test procedures for such electric motors that meets the requirements of paragraphs (2) and (3) of this subsection. In establishing any amended test procedure under this subparagraph or subparagraph (B), the Secretary shall follow the procedures and meet the requirements specified in section 6293(e) of this title.

(6)(A)(i) In the case of commercial refrigerators, freezers, and refrigerator-freezers, the test procedures shall be—

(I) the test procedures determined by the Secretary to be generally accepted industry testing procedures; or

(II) rating procedures developed or recognized by the ASHRAE or by the American National Standards Institute.

(ii) In the case of self-contained refrigerators, freezers, and refrigerator-freezers to which standards are applicable under paragraphs (2) and (3) of section 6313(c) of this title, the initial test procedures shall be the ASHRAE 117 test procedure that is in effect on January 1, 2005.

(B)(i)<sup>2</sup> In the case of commercial refrigerators, freezers, and refrigerator-freezers with doors covered by the standards adopted in February 2002, by the California Energy Commission, the rating temperatures shall be the integrated average temperature of 38 degrees F ( $\pm$  2 degrees F) for refrigerator compartments and 0 degrees F ( $\pm$  2 degrees F) for freezer compartments.

(C) The Secretary shall issue a rule in accordance with paragraphs (2) and (3) to establish the appropriate rating temperatures for the other products for which standards will be established under section 6313(c)(4)<sup>3</sup> of this title.

(D) In establishing the appropriate test temperatures under this subparagraph, the Secretary shall follow the procedures and meet the requirements under section 6293(e) of this title.

(E)(i) Not later than 180 days after the publication of the new ASHRAE 117 test procedure, if the ASHRAE 117 test procedure for commercial refrigerators, freezers, and refrigerator-freezers is amended, the Secretary shall, by rule, amend the test procedure for the product as necessary to ensure that the test procedure is consistent with the amended ASHRAE 117 test procedure, unless the Secretary makes a determination, by rule, and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures under paragraphs (2) and (3).

(ii) If the Secretary determines that 180 days is an insufficient period during which to review and adopt the amended test procedure or rating procedure under clause (i), the Secretary shall publish a notice in the Federal Register stating the intent of the Secretary to wait not longer than 1 additional year before putting into effect an amended test procedure or rating procedure.

(F)(i) If a test procedure other than the ASHRAE 117 test procedure is approved by the American National Standards Institute, the Secretary shall, by rule—

(I) review the relative strengths and weaknesses of the new test procedure relative to the ASHRAE 117 test procedure; and

(II) based on that review, adopt one new test procedure for use in the standards program.

(ii) If a new test procedure is adopted under clause (i)—

(I) section 6293(e) of this title shall apply; and

(II) subparagraph (B) shall apply to the adopted test procedure.

(7)(A) In the case of automatic commercial ice makers, the test procedures shall be the test procedures specified in Air-Conditioning, Heating, and Refrigeration Institute Standard 810-2003, as in effect on January 1, 2005.

(B)(i) If Air-Conditioning, Heating, and Refrigeration Institute Standard 810-2003 is amended, the Secretary shall amend the test procedures established in subparagraph (A) as necessary to be consistent with the amended Air-Conditioning, Heating, and Refrigeration Institute Standard, unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures under paragraphs (2) and (3).

(ii) If the Secretary issues a rule under clause (i) containing a determination described in clause (ii), the rule may establish an amended test procedure for the product that meets the requirements of paragraphs (2) and (3).

(C) The Secretary shall comply with section 6293(e) of this title in establishing any amended test procedure under this paragraph.

(8) With respect to commercial clothes washers, the test procedures shall be the same as the test procedures established by the Secretary for residential clothes washers under section 6295(g) of this title.

(9) WALK-IN COOLERS AND WALK-IN FREEZERS.—

<sup>2</sup> So in original. No cl. (ii) has been enacted.

<sup>3</sup> See References in Text note below.

(A) IN GENERAL.—For the purpose of test procedures for walk-in coolers and walk-in freezers:

(i) The R value shall be the 1/K factor multiplied by the thickness of the panel.

(ii) The K factor shall be based on ASTM test procedure C518-2004.

(iii) For calculating the R value for freezers, the K factor of the foam at 20°F (average foam temperature) shall be used.

(iv) For calculating the R value for coolers, the K factor of the foam at 55°F (average foam temperature) shall be used.

(B) TEST PROCEDURE.—

(i) IN GENERAL.—Not later than January 1, 2010, the Secretary shall establish a test procedure to measure the energy-use of walk-in coolers and walk-in freezers.

(ii) COMPUTER MODELING.—The test procedure may be based on computer modeling, if the computer model or models have been verified using the results of laboratory tests on a significant sample of walk-in coolers and walk-in freezers.

**(b) Publication in Federal Register; presentment of oral and written data, views, and arguments by interested persons**

Before prescribing any final test procedures under this section, the Secretary shall—

(1) publish proposed test procedures in the Federal Register; and

(2) afford interested persons an opportunity (of not less than 45 days' duration) to present oral and written data, views, and arguments on the proposed test procedures.

**(c) Reevaluations**

(1) The Secretary shall, not later than 3 years after the date of prescribing a test procedure under this section (and from time to time thereafter), conduct a reevaluation of such procedure and, on the basis of such reevaluation, shall determine if such test procedure should be amended. In conducting such reevaluation, the Secretary shall take into account such information as he deems relevant, including technological developments relating to the energy efficiency of the type (or class) of covered equipment involved.

(2) If the Secretary determines under paragraph (1) that a test procedure should be amended, he shall promptly publish in the Federal Register proposed test procedures incorporating such amendments and afford interested persons an opportunity to present oral and written data, views, and arguments. Such comment period shall not be less than 45 days' duration.

**(d) Prohibited representations**

(1) Effective 180 days (or, in the case of small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water

storage tanks, 360 days) after a test procedure rule applicable to any covered equipment is prescribed under this section, no manufacturer, distributor, retailer, or private labeler may make any representation—

(A) in writing (including any representation on a label), or

(B) in any broadcast advertisement,

respecting the energy consumption of such equipment or cost of energy consumed by such equipment, unless such equipment has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

(2) On the petition of any manufacturer, distributor, retailer, or private labeler, filed not later than the 60th day before the expiration of the period involved, the 180-day period referred to in paragraph (1) may be extended by the Secretary with respect to the petitioner (but in no event for more than an additional 180 days) if he finds that the requirements of paragraph (1) would impose on such petitioner an undue hardship (as determined by the Secretary).

**(e) Assistance by National Institute of Standards and Technology**

The Secretary may direct the National Institute of Standards and Technology to provide such assistance as the Secretary deems necessary to carry out his responsibilities under this part, including the development of test procedures.

(Pub. L. 94-163, title III, §343, as added Pub. L. 95-619, title IV, §441(a), Nov. 9, 1978, 92 Stat. 3270; amended Pub. L. 100-418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 102-486, title I, §122(b), (f)(2), Oct. 24, 1992, 106 Stat. 2808, 2817; Pub. L. 109-58, title I, §136(f), Aug. 8, 2005, 119 Stat. 641; Pub. L. 110-140, title III, §§302(b), 312(c), Dec. 19, 2007, 121 Stat. 1552, 1566; Pub. L. 112-210, §10(a)(2), (c)(2), Dec. 18, 2012, 126 Stat. 1522, 1525.)

REFERENCES IN TEXT

Section 6313(c)(4) of this title, referred to in subsec. (a)(6)(C), was redesignated section 6313(c)(5) of this title by Pub. L. 112-210, §4(2), Dec. 18, 2012, 126 Stat. 1517.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112-210, §10(a)(2), made technical amendment to directory language of Pub. L. 110-140, §302(b). See 2007 Amendment note below.

Subsec. (a)(4)(A), (7). Pub. L. 112-210, §10(c)(2), substituted “Air-Conditioning, Heating, and Refrigeration Institute” for “Air-Conditioning and Refrigeration Institute” wherever appearing.

2007—Subsec. (a). Pub. L. 110-140, §302(b), as amended by Pub. L. 112-210, §10(a)(2), inserted subsec. heading, added par. (1), and struck out former par. (1) which read as follows: “The Secretary may conduct an evaluation of a class of covered equipment and may prescribe test procedures for such class in accordance with the provisions of this section.”

Subsec. (a)(9). Pub. L. 110-140, §312(c), added par. (9).

2005—Subsec. (a)(4)(A), (B). Pub. L. 109-58, §136(f)(1)(A), inserted “very large commercial package air conditioning and heating equipment,” after “large commercial package air conditioning and heating equipment.”

Subsec. (a)(6) to (8). Pub. L. 109-58, §136(f)(1)(B), added pars. (6) to (8).

Subsec. (d)(1). Pub. L. 109-58, §136(f)(2), inserted “very large commercial package air conditioning and heating

equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers,” after “large commercial package air conditioning and heating equipment,” in introductory provisions.

1992—Subsec. (a)(1). Pub. L. 102-486, §122(b)(1)(A), added par. (1) and struck out former par. (1) which read as follows: “If the Secretary has conducted an evaluation of a class of covered equipment under section 6313 of this title, he may prescribe test procedures for such class in accordance with the following provisions of this section.”

Subsec. (a)(4), (5). Pub. L. 102-486, §122(b)(1)(B), added pars. (4) and (5).

Subsecs. (c), (d). Pub. L. 102-486, §122(f)(2), redesignated subsec. (d), relating to reevaluations, as (c).

Subsec. (d)(1). Pub. L. 102-486, §122(b)(2), inserted “(or, in the case of small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks, 360 days)” after “180 days”.

1988—Subsec. (e). Pub. L. 100-418 substituted “National Institute of Standards and Technology” for “National Bureau of Standards”.

#### EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by section 10(a)(2) of Pub. L. 112-210 effective as if included in the Energy Independence and Security Act of 2007, Pub. L. 110-140, see section 10(a)(13) of Pub. L. 112-210, set out as a note under section 6291 of this title.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

### § 6315. Labeling

#### (a) Prescription by Secretary

If the Secretary has prescribed test procedures under section 6314 of this title for any class of covered equipment, he shall prescribe a labeling rule applicable to such class of covered equipment in accordance with the following provisions of this section.

#### (b) Disclosure of energy efficiency of articles of covered equipment

A labeling rule prescribed in accordance with this section shall require that each article of covered equipment which is in the type (or class) of industrial equipment to which such rule applies, discloses by label, the energy efficiency of such article, determined in accordance with test procedures under section 6314 of this title. Such rule may also require that such disclosure include the estimated operating costs and energy use, determined in accordance with test procedures under section 6314 of this title.

#### (c) Inclusion of requirements

A rule prescribed in accordance with this section shall include such requirements as the Secretary determines are likely to assist purchasers in making purchasing decisions, including—

(1) requirements and directions for display of any label,

(2) requirements for including on any label, or separately attaching to, or shipping with, the covered equipment, such additional infor-

mation relating to energy efficiency, energy use, and other measures of energy consumption, including instructions for the maintenance, use, or repair of the covered equipment, as the Secretary determines necessary to provide adequate information to purchasers, and

(3) requirements that printed matter which is displayed or distributed at the point of sale of such equipment shall disclose such information as may be required under this section to be disclosed on the label of such equipment.

#### (d) Labeling rules applicable to electric motors

Subject to subsection (h) of this section, not later than 12 months after the Secretary establishes test procedures for electric motors under section 6314 of this title, the Secretary shall prescribe labeling rules under this section applicable to electric motors taking into consideration NEMA Standards Publication MG1-1987. Such rules shall provide that the labeling of any electric motor manufactured after the 12-month period beginning on the date the Secretary prescribes such labeling rules, shall—

(1) indicate the energy efficiency of the motor on the permanent nameplate attached to such motor;

(2) prominently display the energy efficiency of the motor in equipment catalogs and other material used to market the equipment; and

(3) include such other markings as the Secretary determines necessary solely to facilitate enforcement of the standards established for electric motors under section 6313 of this title.

#### (e) Labeling rules for air conditioning and heating equipment

Subject to subsection (h) of this section, not later than 12 months after the Secretary establishes test procedures for small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers, walk-in coolers and walk-in freezers, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks under section 6314 of this title, the Secretary shall prescribe labeling rules under this section for such equipment. Such rules shall provide that the labeling of any small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers, walk-in coolers and walk-in freezers, packaged terminal air conditioner, packaged terminal heat pump, warm-air furnace, packaged boiler, storage water heater, instantaneous water heater, and unfired hot water storage tank manufactured after the 12-month period beginning on the date the Secretary prescribes such rules shall—

(1) indicate the energy efficiency of the equipment on the permanent nameplate at-