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**[6450-01-P]**

**DEPARTMENT OF ENERGY**

**10 CFR Part 431**

**[Docket No. EERE-2013-BT-STD-0022]**

**RIN: 1904-AD00**

**Energy Conservation Standards for Refrigerated Beverage Vending Machines: Public Meeting and Availability of the Preliminary Technical Support Document**

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

**ACTION:** Notice of public meeting and availability of preliminary technical support document.

**SUMMARY:** The U.S. Department of Energy (DOE) will hold a public meeting to discuss and receive comments on the preliminary analysis it has conducted for purposes of considering amended energy conservation standards for refrigerated beverage vending machines. The meeting will cover the analytical framework, models, and tools that DOE is using to evaluate potential amended and new standards for this equipment; the results of preliminary analyses performed by DOE for this equipment; the potential energy conservation standard levels derived from these analyses that DOE could consider for this equipment; and any other issues relevant to the development of amended energy conservation standards for refrigerated beverage vending

machines. In addition, DOE encourages written comments on these subjects. To inform interested parties and to facilitate this process, DOE has prepared an agenda, a preliminary technical support document (TSD), and briefing materials, which are available on the DOE website at:

[http://www1.eere.energy.gov/buildings/appliance\\_standards/rulemaking.aspx/ruleid/73](http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/73)

**DATES:** DOE will accept comments, data, and other information regarding this rulemaking before or after the public meeting, but no later than **INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**. See section IV, “Public Participation,” of this notice of public meeting (NOPM) for details. DOE will hold a public meeting on September 16, 2014, from 9:00 AM to 5:00 PM, in Washington, DC. Additionally, DOE plans to allow for participation in the public meeting via webinar.

**ADDRESSES:** The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room GH-019, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Please note that foreign nationals participating in the public meeting are subject to advance security screening procedures which require advance notice prior to attendance at the public meeting. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting Ms. Brenda Edwards at (202) 586-2945 so that the necessary procedures can be completed. DOE requires visitors to have laptops and other devices, such as tablets, checked upon entry into the building. Please report to the visitor’s desk to have devices checked before proceeding through security.

Interested persons may submit comments, identified by docket number EERE-2013-BT-STD-0022 and/or Regulation Identification Number (RIN) 1904-AD00, by any of the following methods:

- Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the instructions for submitting comments.
- Email: [BVM2013STD0022@ee.doe.gov](mailto:BVM2013STD0022@ee.doe.gov). Include the docket number EERE-2013-BT-STD-0022 and/or RIN 1904-AD00 in the subject line of the message.
- Postal Mail: Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-5B, 1000 Independence Avenue, SW., Washington, DC 20585-0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies. (Please note that comments and CDs sent by mail are often delayed and may be damaged by mail screening processes.)
- Hand Delivery/Courier: Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza, SW., Suite 600, Washington, DC 20024. Telephone: (202) 586-2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

Docket: The docket is available for review at [www.regulations.gov](http://www.regulations.gov), including **Federal Register** notices, the framework document, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The rulemaking webpage can be found at:

[http://www1.eere.energy.gov/buildings/appliance\\_standards/rulemaking.aspx/ruleid/73](http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/73). This webpage contains a link to the docket for this notice on the [www.regulations.gov](http://www.regulations.gov) site. The [www.regulations.gov](http://www.regulations.gov) webpage contains instructions on how to access all documents in the docket, including public comments.

For detailed instructions on submitting comments and additional information on the rulemaking process, see section IV, “Public Participation,” of this document. For further information on how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact Ms. Brenda Edwards at (202) 586-2945 or by email: [Brenda.Edwards@ee.doe.gov](mailto:Brenda.Edwards@ee.doe.gov).

**FOR FURTHER INFORMATION CONTACT:** Mr. Ron Majette, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE-5B, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 286-1692. E-mail: [BVM2013STD0022@ee.doe.gov](mailto:BVM2013STD0022@ee.doe.gov). Or visit DOE’s Refrigerated Beverage Vending Machine webpage at [http://www1.eere.energy.gov/buildings/appliance\\_standards/product.aspx/productid/24](http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/24) for information about any existing standards and test procedures, and the history and impacts of previous DOE regulatory actions, for this category of equipment.

Ms. Sarah Butler, U.S. Department of Energy, Office of the General Counsel, GC-71,  
1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-1777.

Email: [Sarah.Butler@hq.doe.gov](mailto:Sarah.Butler@hq.doe.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Table of Contents**

- I. Authority
- II. History of Energy Conservation Standards for Refrigerated Beverage Vending Machines
  - A. Background
  - B. Current Rulemaking Process
- III. Summary of the Analyses Performed by DOE
  - A. Engineering Analysis
  - B. Markups To Determine Prices
  - C. Energy Use Analysis
  - D. Life-Cycle Cost and Payback Period Analyses
  - E. National Impact Analysis
- IV. Public Participation
  - A. Attendance at the Public Meeting
  - B. Procedure for Submitting Requests to Speak
  - C. Conduct of the Public Meeting
  - D. Submission of Comments
- V. Approval of the Office of the Secretary

### **I. Authority**

Title III, Part B<sup>1</sup> of the Energy Policy and Conservation Act of 1975, as amended, (EPCA), Pub. L. 94-163 (42 U.S.C. 6291-6309, as codified) sets forth a variety of provisions designed to improve energy efficiency and established the “Energy Conservation Program for

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<sup>1</sup> For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

Consumer Products Other Than Automobiles.”<sup>2</sup> As part of this program, EPCA directed DOE to prescribe energy conservation standards for beverage vending machines. (42 U.S.C. 6295(v))<sup>3</sup>

EPCA requires that, not later than 6 years after issuance of any final rule establishing or amending a standard, DOE publish a notice of proposed rulemaking (NOPR) proposing new standards or a notice of determination that the existing standards do not need to be amended. (42 U.S.C. 6295(m)(1))

EPCA provides criteria for prescribing amended and new energy conservation standards. More specifically, DOE is required to ensure that each standard: (1) achieves the maximum improvement in energy efficiency that is technologically feasible and economically justified; and (2) results in significant conservation of energy. (42 U.S.C. 6295(o)(2)(A) and (o)(3)(B)) EPCA also provides that in deciding whether a proposed standard is economically justified, DOE must, after receiving comments on the proposed standard, determine whether the benefits of the standard exceed its burdens by considering, to the greatest extent practicable, the following

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<sup>2</sup> All references to EPCA in this document refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA), Pub. L. 112-210 (Dec. 18, 2012).

<sup>3</sup> Because Congress included BVMs in Part A of Title III of EPCA, the consumer product provisions of Part A (not the industrial equipment provisions of Part A-1) apply to BVMs. DOE placed the regulatory requirements specific to BVMs in Title 10 of the Code of Federal Regulations (CFR), part 431, “Energy Efficiency Program for Certain Commercial and Industrial Equipment” as a matter of administrative convenience based on their type and will refer to BVMs as “equipment” throughout this document because of their placement in 10 CFR part 431. Despite the placement of BVMs in 10 CFR part 431, the relevant provisions of Title A of EPCA and 10 CFR part 430, which are applicable to all product types specified in Title A of EPCA, are applicable to BVMs. See 74 FR 44914, 44917 (Aug. 31, 2009). DOE proposes to amend 10 CFR 431.291 to clarify this point by specifying that the regulatory provisions of 10 CFR 430.33 and 430.34 and subparts D and E of 10 CFR part 430 are applicable to BVMs. DOE notes that, because the procedures in Parts 430 and 431 for petitioning the Department for and obtaining a test procedure waiver are substantively the same (79 FR 26591, 26601(May 9, 2014)) the regulations for applying for a test procedure waiver for BVMs are those found at 10 CFR 431.401 rather than those found at 430.27.

seven factors:

1. The economic impact of the standard on manufacturers and consumers of products subject to the standard;
2. The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products which are likely to result from the standard;
3. The total projected amount of energy savings likely to result directly from the standard;
4. Any lessening of the utility or the performance of the covered products likely to result from the standard;
5. The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;
6. The need for national energy conservation; and
7. Other factors the Secretary of Energy considers relevant.

(42 U.S.C. 6295(o)(2)(B)(i))

EPCA further provides that DOE may not prescribe an amended or new standard if the standard is likely to result in the unavailability in the United States in any covered equipment type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States at the time that the standard is prescribed. (42 U.S.C. 6295(o)(4))

Before proposing a standard, DOE typically seeks public input on the analytical framework, models, and tools that DOE will use to evaluate standards for the equipment at issue and the results of preliminary analyses DOE performed for the equipment. DOE publishes this notice announcing the availability of the preliminary technical support document (TSD), which details the preliminary analyses, discusses the comments DOE received from interested parties on the Framework Document, and summarizes the preliminary results of DOE's analyses. In addition, DOE is announcing a public meeting to solicit feedback from interested parties on its analytical framework, models, and preliminary results.

## **II. History of Energy Conservation Standards for Refrigerated Beverage Vending Machines**

### A. Background

EPCA directed the Secretary to issue by rule, no later than August 8, 2009, energy conservation standards for refrigerated bottled or canned beverage vending machines. DOE began a rulemaking process in 2006 and in August 2009 published a final rule for beverage vending machines (henceforth referred to as the 2009 BVM final rule). 74 FR 44914 (Aug. 31, 2009). The entire rulemaking process that culminated with the publication of the 2009 BVM final rule will be referred to as the 2009 BVM rulemaking. The 2009 BVM final rule established energy conservation standards for beverage vending machines, with a compliance date of August 31, 2012. The 2009 BVM final rule document is currently available at <http://www.regulations.gov/#!documentDetail;D=EERE-2006-STD-0125-0005>.



## B. Current Rulemaking Process

In initiating this rulemaking, DOE prepared a Framework Document, “Energy Conservation Standards Rulemaking Framework Document for Refrigerated Beverage Vending Machines,” which describes the procedural and analytical approaches DOE anticipates using to evaluate energy conservation standards for refrigerated beverage vending machines. DOE published a notice that announced both the availability of the Framework Document and a public meeting to discuss the proposed analytical framework for the rulemaking. That notice also invited written comments from the public. 78 FR 33262 (June 4, 2013). The Framework Document is available at: <http://www.regulations.gov/#!docketDetail;D=EERE-2013-BT-STD-0022>.

DOE held a public meeting on June 20, 2013, at which it described the various analyses DOE would conduct as part of the rulemaking, such as the engineering analysis, the life-cycle cost (LCC) and payback period (PBP) analyses, and the national impact analysis (NIA). Representatives for manufacturers, environmental and energy efficiency advocates, and other interested parties attended the meeting.

Comments received since publication of the Framework Document have helped DOE identify and resolve issues related to the preliminary analyses. Chapter 2 of the preliminary TSD summarizes and addresses the comments received in response to the Framework Document.

### **III. Summary of the Analyses Performed by DOE**

For the refrigerated beverage vending machines covered in this rulemaking, DOE is both considering amending standards for equipment classes with current standards, as well as potentially establishing standards for covered equipment classes which do not currently have standards. DOE conducted in-depth technical analyses in the following areas: (1) engineering; (2) markups to determine equipment price; (3) energy use; (4) life-cycle cost and payback period; and (5) national impacts. The preliminary TSD that presents the methodology and results of each of these analyses is available at: <http://www.regulations.gov/#!docketDetail;D=EERE-2013-BT-STD-0022>.

DOE also conducted, and has included in the preliminary TSD, several other analyses that support the major analyses or are preliminary analyses. These will be expanded upon for a notice of proposed rulemaking (NOPR), if DOE determines that amended energy conservation standards are technologically feasible, economically justified, and would save a significant amount of energy, based on the available information. These analyses include: (1) the market and technology assessment; (2) the screening analysis, which contributes to the engineering analysis; and (3) the shipments analysis, which contributes to the LCC and PBP analysis and the NIA. In addition to these analyses, DOE has begun preliminary work on the manufacturer impact analysis and has identified the methods to be used for the consumer subgroup analysis, the emissions analysis, the employment impact analysis, the regulatory impact analysis, and the utility impact analysis. DOE will expand on these analyses in the NOPR.

## A. Engineering Analysis

The engineering analysis establishes the relationship between the cost and efficiency levels of the equipment that DOE is evaluating as potential energy conservation standards. This relationship serves as the basis for cost-benefit calculations for individual consumers, manufacturers, and the nation. The engineering analysis identifies representative baseline equipment, which is the starting point for analyzing technologies that provide energy efficiency improvements. “Baseline equipment” refers to a model or models having features and technologies typically found in minimally-efficient equipment currently available on the market and, for equipment already subject to energy conservation standards, models that just meet the current standards. After identifying the baseline models, DOE estimated manufacturer selling prices by using a consistent methodology and pricing scheme that includes material costs and manufacturer markups. Chapter 5 of the preliminary TSD discusses the engineering analysis.

## B. Markups To Determine Prices

DOE derives customer prices for equipment based on manufacturer markups, retailer markups, distributor markups, contractor markups (where appropriate), and sales taxes. In deriving these markups, DOE determines the major distribution channels for equipment sales, the markup associated with each party in each distribution channel, and the existence and magnitude of differences between markups for baseline equipment (baseline markups) and higher-efficiency equipment (incremental markups). DOE calculates both overall baseline and overall incremental markups based on the markups at each step in each distribution channel. Chapter 6 of the preliminary TSD addresses the markups analysis.

### C. Energy Use Analysis

The energy use analysis provides estimates of the annual energy consumption of refrigerated beverage vending machines. The energy use analysis seeks to estimate the range of energy consumption of the equipment that meets each of the efficiency levels considered in a given rulemaking as it is used in the field. DOE uses these values in the LCC and PBP analyses and in the NIA. Chapter 7 of the preliminary TSD addresses the energy use analysis.

### D. Life-Cycle Cost and Payback Period Analyses

The LCC and PBP analyses determine the economic impact of potential amended standards on individual consumers. The LCC is the total cost of purchasing, installing, and operating considered equipment over the course of its lifetime. The LCC analysis compares the LCCs of equipment designed to meet possible energy conservation standards with the LCC of the equipment likely to be installed in the absence of standards. DOE determines LCCs by considering: (1) total installed cost to the purchaser (which consists of manufacturer selling price, distribution chain markups, sales taxes, and installation cost); (2) the operating cost of the equipment (energy cost, water and wastewater cost in some cases, and maintenance and repair cost); (3) equipment lifetime; and (4) a discount rate that reflects the real consumer cost of capital and puts the LCC in present-value terms. The PBP represents the number of years needed to recover the increase in purchase price (including installation cost) of higher-efficiency equipment through savings in the operating cost of the equipment. PBP is calculated by dividing the incremental increase in installed cost of the higher efficiency equipment, compared to the baseline equipment, by the annual savings in operating costs. Chapter 8 of the preliminary TSD addresses the LCC and PBP analyses.

## E. National Impact Analysis

The NIA estimates the national energy savings (NES) and the net present value (NPV) of total consumer costs and savings expected to result from amended standards at specific efficiency levels (referred to as candidate standard levels). DOE calculated NES and NPV for each candidate standard level for refrigerated beverage vending machines as the difference between a base-case forecast (without amended standards) and the standards-case forecast (with standards). DOE determined national annual energy consumption by multiplying the number of units in use (by vintage) by the average unit energy consumption (also by vintage). Cumulative energy savings are the sum of the annual NES determined for the lifetime of the equipment shipped from 2019 to 2048 for all equipment classes. The analysis period is 30 years, which is consistent with other rulemakings and sufficiently long to cover the expected life of the equipment. The analysis period begins in 2019, the expected year of compliance with an amended standard. The national NPV is the sum over time of the discounted net savings each year, which consists of the difference between total operating cost savings and increases in total installed costs. Critical inputs to this analysis include shipments projections, estimated equipment lifetimes, equipment installed costs and operating costs, equipment annual energy consumption, the base-case efficiency projection, and discount rates. Chapter 10 of the preliminary TSD addresses the National Impact Analysis.

#### **IV. Public Participation**

DOE invites input from the public on all the topics described above. The preliminary analytical results are subject to revision following further review and input from the public. A complete and revised TSD will be made available upon issuance of a NOPR. The final rule establishing any amended energy conservation standards will contain the final analytical results and will be accompanied by a final rule TSD.

DOE encourages those who wish to participate in the public meeting to obtain the preliminary TSD from DOE's website and to be prepared to discuss its contents. Once again, a copy of the preliminary TSD is available at:

<http://www.regulations.gov/#!docketDetail;D=EERE-2013-BT-STD-0022>. However, public meeting participants need not limit their comments to the topics identified by DOE in the preliminary TSD; DOE is also interested in receiving views concerning other relevant issues that participants believe would affect energy conservation standards for this equipment or that DOE should address in the NOPR.

Furthermore, DOE welcomes all interested parties, regardless of whether they participate in the public meeting, to submit in writing by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** comments, data, and information on matters addressed in the preliminary TSD and on other matters relevant to consideration of energy conservation standards for beverage vending machines.

The public meeting will be conducted in an informal, conference style. A court reporter will be present to record the minutes of the meeting. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by United States antitrust laws.

After the public meeting and the closing of the comment period, DOE will consider all timely-submitted comments and additional information obtained from interested parties, as well as information obtained through further analyses. Afterwards, the Department will publish either a determination that the standards for refrigerated beverage vending machines need not be amended or a NOPR proposing to amend those standards. The NOPR would include proposed energy conservation standards for the equipment covered by the rulemaking, and members of the public will be given an opportunity to submit written and oral comments on the proposed standards.

#### A. Attendance at the Public Meeting

The time and date of the public meeting are listed in the **DATES** and **ADDRESSES** sections at the beginning of this notice. The public meeting will be held at the U.S. Department of Energy, Forrestal Building, **GH-019**, 1000 Independence Avenue, SW., Washington, DC 20585-0121. To attend the public meeting, please notify Ms. Brenda Edwards at (202) 586-2945. Any foreign national wishing to participate in the meeting should advise DOE of this fact as soon as possible by contacting Ms. Brenda Edwards to initiate the necessary procedures.

You can attend the public meeting via webinar, and registration information, participant instructions, and information about the capabilities available to webinar participants will be published on the following website:

[http://www1.eere.energy.gov/buildings/appliance\\_standards/rulemaking.aspx/ruleid/73](http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/73).

Participants are responsible for ensuring their computer systems are compatible with the webinar software.

The purpose of the meeting is to receive comments and to help DOE understand potential issues associated with this rulemaking. DOE must receive requests to speak at the meeting before **5:00pm Tuesday, September 2, 2014**. DOE must receive a signed original and an electronic copy of statements to be given at the public meeting before **5:00pm Tuesday, September 9, 2014**.

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

Any person who has an interest in today's notice or who is a representative of a group or class of persons that has an interest in these issues may request an opportunity to make an oral presentation. Such persons may hand-deliver requests to speak, along with a computer diskette or CD in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format to Ms. Brenda Edwards at the address shown in the **ADDRESSES** section at the beginning of this notice between 9:00 a.m. and 4:00 p.m. Monday through Friday, except Federal holidays. Requests may also be sent by mail to the address shown in the **ADDRESSES** section or email to

[Brenda.Edwards@ee.doe.gov](mailto:Brenda.Edwards@ee.doe.gov).



Persons requesting to speak should briefly describe the nature of their interest in this rulemaking and provide a telephone number for contact. DOE requests persons selected to be heard to submit an advance copy of their statements at least two weeks before the public meeting. At its discretion, DOE may permit any person who cannot supply an advance copy of their statement to participate, if that person has made advance alternative arrangements with the Building Technologies Office. The request to give an oral presentation should ask for such alternative arrangements.

### C. Conduct of the Public Meeting

DOE will designate a DOE official to preside at the public meeting and may also employ 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 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 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 DOE-determined time limits) prior to 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 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 from DOE and 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 posted on the DOE website and will also 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 other information regarding this rulemaking before or after the public meeting, but no later than the date provided at the beginning of this notice. Please submit comments, data, and other information as provided in the **ADDRESSES** section. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format and avoid the use of special characters or any form of encryption. Comments in electronic format should be identified by the Docket Number EERE-2013-BT-STD-0022 and/or RIN 1904-

AD00 and, wherever possible, carry the electronic signature of the author. 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 including all the information believed to be confidential and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination as to 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) a date upon which such information might lose its confidential nature due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

## **V. Approval of the Office of the Secretary**

The Secretary of Energy has approved publication of this NOPM.

Issued in Washington, DC, on August 1, 2014.

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Kathleen B. Hogan  
Deputy Assistant Secretary for Energy Efficiency  
Energy Efficiency and Renewable Energy

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