

packaged dates and dates for packaging and dates in retail packages would compete with dates produced domestically. Thus, since that time, imported packaged dates and dates for packaging for sale in the retail market have been required to meet quality requirements comparable to those specified under the California date marketing order and the import regulation currently applies to all varieties of dates.

The Department recently received requests from representatives of an importer of Israeli dates and the Embassy of Israel to remove the Medjool variety of dates from the import regulation. The representatives of the Israeli importer expressed concerns that domestic Medjool dates are not subject to quality requirements while all imported dates are subject to specific requirements.

The Medjool date is a unique variety—a much larger date than other varieties and is thus easily distinguishable. Given this unique characteristic, the Medjool date commands a premium price and is believed to not be in direct competition with the four varieties of dates covered under the marketing order.

In looking at the domestic market, Medjool dates were not produced in significant quantities in the United States when the marketing order was promulgated in 1955. Since that time, plantings of Medjool dates have increased to account for over 15 percent of the bearing acreage of dates in California. In comparing the production of the Medjool variety of dates with the four varieties covered under the marketing order, Medjool dates now comprise about 20 percent (or 9 million pounds) of the total production (about 45 million pounds). With the increase in Medjool production in recent years, the domestic date industry has considered amending the marketing order to cover Medjool dates. However, at this time, no formal action has been taken and domestic Medjools remain unregulated.

In looking at data regarding imported dates, in the 1960's when the date import regulation was initiated, few if any Medjool dates were imported into the United States. At that time most of the imported dates came from Iraq and Iran and were of the Sayir variety. Sayir dates and other varieties imported into this country are similar in appearance to the Deglet Noor, Zahidi, Halawy and Khadrawy varieties regulated under the marketing order. During the past five years (1990–1994), about 13 million pounds of dates were imported into this country annually, mostly coming from

Pakistan (over 65 percent). Medjools account for a relatively small percentage of imported dates, with most of the imported Medjools coming from Mexico and a small amount coming from Israel. Mexican and Israeli dates account for about 3 percent and 4 percent, respectively, of total U.S. date imports. Of the total date import inspections from Mexico over the last 5 years, about 54 percent were of the Medjool variety. About 1 percent of the date import inspections from Israel during this same period were Medjools.

In response to these requests, the Department is issuing this proposed rule to provide interested persons the opportunity to comment on removing Medjool dates from import requirements. All other varieties of imported dates would continue to be subject to import requirements. Such other varieties are not as easily distinguishable as Medjools and are believed to be in direct competition with the varieties regulated under the marketing order.

Thus, it is proposed that section 999.1 of the Code of Federal Regulations (CFR), which specifies the import regulation for dates, be amended to exclude Medjool dates.

To exclude dates of the Medjool variety from the terms of the date import regulations, a new definition for dates is added to paragraph (a). The new definition defines “dates” as all varieties of dates, except dates of the Medjool variety.

In addition, minor changes in the current definitions for the terms “Fruit and Vegetable Division”, “USDA inspector”, and “Importation” are proposed to be made to reflect changes in the names of Federal agencies referred to in the definitions.

The definition of “Fruit and Vegetable Division” refers to the “Consumer and Marketing Service”. That agency is now called the “Agricultural Marketing Service”. The definition of “USDA inspector” refers to inspectors of the “Processed Products Standardization and Inspection Branch”. The name of the Branch is now the “Processed Products Branch”. Finally, the definition of “Importation” references the “United States Bureau of Customs”. This agency is now called the “United States Customs Service”.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with issuance of this proposed rule.

This rule would relax requirements currently in effect for date importers and would not impose any additional costs on affected importers. Thus, the

Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

The information collection requirements under the date import regulation have been previously approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and have been assigned OMB number 0581–0077.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

#### List of Subjects in 7 CFR Part 999

Dates, Filberts, Food grades and standards, Imports, Nuts, Prunes, Raisins, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR part 999 is proposed to be amended as follows:

1. The authority citation for 7 CFR part 999 continues to read as follows:

Authority: 7 U.S.C. 601–674.

#### PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

2. In § 999.1, paragraphs (a) (1) through (10) are redesignated as paragraphs (a) (2) through (11), a new paragraph (a) (1) is added, and new paragraphs (a) (8), (9), and (11) are revised to read as follows:

##### § 999.1 Regulation governing the importation of dates.

(a) *Definitions.* (1) Dates means all varieties of dates, except dates of the Medjool variety.

\* \* \* \* \*

(8) *Fruit and Vegetable Division* means the Fruit and Vegetable Division of the Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250.

(9) *USDA inspector* means an inspector of the Processed Products Branch, Fruit and Vegetable Division or any duly authorized employee of the USDA.

\* \* \* \* \*

(11) *Importation* means release from the custody of the United States Customs Service.

\* \* \* \* \*

Dated: April 2, 1996.

Eric M. Forman,  
Deputy Director, Fruit and Vegetable Division.  
[FR Doc. 96–8718 Filed 4–8–96; 8:45 am]

BILLING CODE 3410–02–P

**DEPARTMENT OF ENERGY****10 CFR Part 437****Office of Energy Efficiency and Renewable**

[Docket No. EE-RM-95-202]

RIN 1904-AA74

**Home Energy Rating System Guidelines**

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

**ACTION:** Proposed rule; Notice of limited reopening of the comment period.

**SUMMARY:** On July 25, 1995, the Department of Energy (DOE) published a notice of proposed rulemaking to establish voluntary guidelines for home energy rating systems that provide residential building energy efficiency ratings and were developed in consultation with the Home Energy Rating Systems Council. The purpose of this document is to reopen the comment period for 30 days in order to solicit recommendations from the Board of Directors of the Home Energy Rating Systems Council, and comments from all interested persons, with respect to new policy options and technical data that DOE is considering in preparation for final guidelines. These options respond to comments concerning three components of the guidelines: air infiltration levels for the reference and the rated home; heating, air conditioning and hot water equipment for the reference home; and the phased-in compliance levels.

**DATES:** Written comments ([10] copies) on the issues presented in this document must be received on or before May 9, 1996.

**ADDRESSES:** Comments should be addressed to: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE-33, Docket No. EE-RM-95-202, 1000 Independence Avenue, S.W., Washington, D.C. 20585, 202-586-3012.

*Public Reading Room:* Supporting information used to develop this notice and the written comments received are contained in the Public Rulemaking File, Docket No. EE-RM-95-202. This Docket is available for examination in DOE's Freedom of Information Reading Room, 1E-090, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, 202-586-6020, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The supporting information used to develop this notice is also available on

the internet at URL#: <http://www.eren.doe.gov> or from the Energy Efficiency and Renewable Energy Clearinghouse at 1-800-DOE-EREC (1-800-363-3732).

**FOR FURTHER INFORMATION CONTACT:**

John Reese or Robert Mackie, Buildings Division, EE-432, U. S. Department of Energy, Room 1J-018, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 586-7819.

Diana Dean, Office of General Counsel, GC-12, U.S. Department of Energy, Room 6B-231, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 586-7440.

**SUPPLEMENTARY INFORMATION:****I. Introduction**

This notice to reopen the comment period is part of an ongoing, Congressionally mandated rulemaking to establish voluntary home energy rating system guidelines that are required by section 271 of the National Energy Conservation Policy Act (Act), as amended by the Energy Policy Act of 1992, 42 U.S.C. 8236. The background for this rulemaking is discussed in detail in the Supplementary Information section of the notice of proposed rulemaking, 60 FR 37949 (July 25, 1995).

Since the close of the 60-day comment period on the notice of proposed rulemaking, DOE has been reviewing the comments. As directed by the Act, DOE has consulted with the Home Energy Rating Systems (HERS) Council and sought its views on issues that emerged from the comments. With respect to comments claiming that the proposed reference home infiltration rate is too high and that the proposed reference home heating, air conditioning and hot water equipment produced unexpected rating anomalies, the Technical Committee of the HERS Council made recommendations that are discussed in detail later in this notice. The HERS Council Board did not take a position on these recommendations and sent these issues back to the Technical Committee for further review.

Consistent with its obligation to promulgate final guidelines, DOE has independently reviewed the HERS Technical Committee's recommendations, and today makes available for public comment DOE's technical evaluations. These evaluations are entitled "Climate Sensitive Air Change Rate Study" and "Analysis of Heating, Air Conditioning, and Water Heating Equipment Adjustment Factors." They have been added to the public file in DOE's Freedom of

Information Reading Room and may be obtained from the information contact for this rulemaking or through the internet as described above. DOE is now considering whether to modify the proposed guidelines accordingly.

In addition, adverse comments on the advisability of DOE's proposed distinction between "basic compliance" and "full compliance" for the two years following promulgation of the guidelines have prompted DOE to consider an alternative approach to phasing in compliance that was not discussed in the notice of proposed rulemaking. Later in this notice, DOE's tentative approach to resolving these issues is set forth for public comment.

DOE requests that the HERS Council Board respond to this notice by filing comments that include recommendations regarding the policy options DOE is considering. DOE also would welcome the comments of other interested members of the public.

**II. Discussion of New Policy Options****A. Infiltration**

DOE originally proposed guidelines assuming a level of 0.67 air changes per hour (ACH) for the reference home to which the subject rated home is compared. The 0.67 ACH was based on the Council of American Building Official's Model Energy Code (MEC), 1994 amendments.

Although one comment endorsed the proposed level, most comments were critical. There were two major concerns. One was that the proposed 0.67 ACH results in a reference home that is too energy inefficient when compared to newly constructed houses that typically have infiltration rates below 0.50 ACH. Another concern was that a single national air change rate was not valid for all climate conditions.

Some of the critics suggested substituting a 0.50 ACH level provided for in the 1995 MEC. Others favored reliance on the infiltration and ventilation consensus standards of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE): ASHRAE Standard 119-1988 establishes minimum air leakage levels and provides a method for establishing a normalized leakage area, producing a consistent measure of building tightness; ASHRAE Standard 136-1993 establishes a calculation method for effective air change and provides weather factors that, when applied to a normalized leakage area, produce an effective air change rate for various locations across the country; and

ASHRAE Standard 62-1989 sets minimum standards for ventilation.

The HERS Council Technical Committee supported use of the ASHRAE standards. They suggested that the guidelines should provide a base level value for the normalized leakage area of 0.57 to be adjusted for weather using the ASHRAE factors. The 0.57 normalized leakage area base level *increases* the reference home's energy efficiency (in comparison to the level under the proposed guidelines), yielding a level appropriate for most regions when adjusted for weather conditions. For the vast majority of the sites, the reference home would be between 0.57 ACH and 0.40 ACH. Furthermore, with a 0.57 normalized leakage, the Technical Committee believed that no weather adjusted air change rates would fall below the 0.35 ACH minimum ventilation rate set by ASHRAE Standard 62.

The suggestion to use the single point set by the Model Energy Code overlooked an important shortcoming. This approach, is not sensitive to the variation in air change rates due to climatic variations. DOE has decided that, with two minor modifications, the Technical Committee's recommendation to use ASHRAE standards has sufficient merit to be considered for inclusion in the final guidelines. The first modification is to incorporate in the guidelines the minimum 0.35 ACH for the reference house. This is necessary because two of the 213 sites nationwide examined by the Technical Committee are in fact slightly below the 0.35 level. The second modification is a conforming change to the treatment of the rated house. That change would involve adjustment of the ACH using the weather factors in ASHRAE Standard 136-1993. Addition of this approach to the proposed guidelines may provide a nationally recognized method for setting air change rates sensitive to different climate conditions and consistent with recommended minimum ventilation rates.

DOE also solicits comment on establishing a minimum allowable air change rate. DOE is now considering as a policy option for the final guidelines setting 0.35 ACH as the minimum allowable air change rate on which energy savings may be calculated for the rated home. The 0.35 ACH coincides with the rate currently specified by ASHRAE Standard 62 for minimum ventilation. Lowering the level of the air change rate any further should not result in a higher HERS rating.

#### *B. Heating, Air Conditioning, and Hot Water Equipment*

The proposed guidelines provided for a computerized comparison of the rated home to a reference home using the same energy source as the rated home. Consistent with the recommendations of the HERS Council Board, the proposed guidelines further provide for estimated energy consumption at the home for the rated and reference homes.

After the comment period ended, the HERS Technical Committee identified some anomalous rating results that the foregoing approach produced when it was assumed that an identical energy efficiency improvement (e.g., a new air conditioning system) was made to two rated homes. These two rated homes differ only in the fuel used for heating, air conditioning, and hot water. Improvements to fossil fuel homes tended to rate higher than electric homes in climates with large heating loads. The relationship reversed for climates with large cooling loads.

The problem occurs because the end use loads of the reference and rated homes are divided by the seasonal performance coefficients of the heating, cooling, and hot water equipment to arrive at the consumption. The impact of other efficiency changes is then based on energy consumption. Consequently, the same improvements have different impacts in homes of different fuels.

To achieve an equal treatment of efficiency improvements, the HERS Technical Committee recommended

that an adjustment factor be used. This factor would adjust the consumption of the reference and rated homes for the purposes of the rating point score. It normalizes load so that efficiency improvements can be measured equally regardless of fuel type. This is achieved by setting one profile of equipment as the basis from which equipment utilizing other fuels is specified. The base fuel could be any fuel. The Technical Committee selected a profile of electric equipment as the basis because it is widely available for heating, cooling, and hot water purposes. Fossil fuel cooling systems, for example, are much less common.

The HERS Council had originally developed a table of efficiencies for heating, cooling, and hot water equipment and included them in their guidelines. This information was incorporated in section 437.103, Tables 2 and 4, of the proposed guidelines and served as the basis for efficiency of equipment in the reference home. Rather than using those tables as the basis for developing the adjustment factor, the Technical Committee reduced the tables by combining classes and sizes of equipment. Because Table 2 did not include a minimum efficiency level for biomass heating or gas cooling, the Technical Committee used professional judgement to set levels for these technologies.

DOE has reviewed the HERS Council Technical Committee's recommendations and believes they may have merit. However, reducing the information in Tables 2 and 4 to the extent recommended oversimplifies the range of equipment options. Therefore, additional equipment options from Tables 2 and 4 are presented below with the adjustment factors and the accompanying equation. Table 2A presents factors for gas cooling and biomass heating. DOE is particularly interested in comments on these two values for which no standards exist.

TABLE 2

Type	Units	Rating	Adjustment factor <sup>1</sup>
Heating equipment:			
Gas or Oil Warm Air Furnace .....	AFUE	0.78	0.39
Gas Boiler (water) .....	AFUE	.80	.40
Gas Boiler (steam) .....	AFUE	.75	.37
Oil Boiler (water or steam) .....	AFUE	.80	.40
Electric Air Source Heat Pump .....	HSPF	6.80	1.00
Cooling equipment:			
Electric Central Air Conditioner .....	SEER	10.00	1.00
Heat Pump .....	SEER	10.00	1.00

1. The adjustment factor is created by dividing the seasonal performance coefficient of the alternative fuel device (eg. natural gas, fuel oil, biomass, etc.) by the seasonal performance coefficient of the equivalent electric device. The seasonal performance coefficients for electric heating and cooling devices have units of Btu/W. To convert HSPF and SEER to seasonal performance coefficients they must be divided by 3.413 Btu/W, yielding seasonal performance coefficients of 1.99 and 2.93 for the standard HSPF of 6.80 and SEER of 10.0, respectively. For water heaters, EF is used for all fuel types. EF and AFUE are already unitless seasonal performance coefficients, so they do not require any modification.

Gas Cooling .....	N/A <sup>2</sup>	0.75	0.26
Biomass Heating .....	N/A	.70	.35

2. No standard efficiencies exist for these technologies. The HERS Technical Committee recommended these levels for consideration.

TABLE 4

Water heating  Type	Rated storage capacity (gallons) and adjustment factor							
	30 gallon		40 gallon		50 gallon		60 gallon	
	EF	AF	EF	AF	EF	AF	EF	AF
Gas .....	0.56	0.61	0.54	0.60	0.53	0.60	0.51	0.59
Oil .....	.53	.58	.53	.59	.50	.57	.48	.55
Electric .....	.91	1.00	.90	1.00	0.88	1.00	0.87	1.00

EF = Energy Factor. AF = Adjustment Factor.

The adjustment factors in the Tables 2, 2A and 4 are used in the equation:  

$$ER = ((E_H \times EU_H + E_C \times EU_C + E_W \times EU_W) + E_M)$$

Where:

ER=Adjusted energy consumption for point calculation.

$E_H$  = Rated home estimated energy purchased for heating.

$E_C$  = Rated home estimated energy purchased for cooling.

$E_W$  = Rated home estimated energy purchased for water heating.

$EU_{H,C,W}$  = Equipment utilization factors from Tables 2, 2A & 4

The point score is then determined using the following equation:

Point score =  $100 - ((ER/EC)/.05)$

Where—

ER=Estimated purchased energy consumption for heating, cooling, and water heating of rated home (Btu).

EC=Estimated purchased energy consumption for heating, cooling, and water heating of reference home (Btu).

DOE has performed an analysis of the HERS Technical Committee recommendations. A copy of that analysis has been placed in the public rulemaking file and is available upon request or through the internet. The analysis shows that the reduction in consumption by the same efficiency improvements, in homes of different fuels, can vary by 3% to 4%. This difference can benefit electric homes or fossil fuel homes. The adjustment factor is shown to eliminate this variation.

On the basis of this analysis, DOE is considering adopting the HERS Technical Committee recommendations

with the modifications described above. Interested members of the public, including the HERS Council Board, are invited to comment on the analysis as well as the general suitability of the recommendations.

#### C. Phased-in Compliance Period

The proposed guidelines allow for phased-in compliance over a two year period. HERS providers would have one year to come into "basic compliance" by meeting a specific set of guideline provisions, and two years to come into "full accreditation" by meeting all the guideline provisions.

This provision generated a wide range of comments. Some advised the total elimination of the section. One argued for an additional one year grace period for meeting the "basic compliance" level. The two level approach was criticized by those who felt that allowing an intermediate level would undermine the value of "full accreditation."

DOE thinks that accreditation is a legitimate subject to address in the guidelines and that failure to include suitable non-binding guidance would irresponsibly leave a crucial implementation subject uncovered. The comments revealed that nearly all HERS providers would have to make adjustments and lending institutions have indicated that they are willing to deal with applicants on an individual basis during an interim period before full compliance is required. Therefore, DOE is considering modifying the proposed guidelines by eliminating the "basic compliance" level and allowing two years for development of

accrediting procedures and for HERS providers to meet all components and become accredited under the guidelines. DOE invites, particularly financial institutions, to comment on this possible policy.

Issued in Washington, D.C. on April 3, 1996.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 96-8782 Filed 4-8-96; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 95-CE-67-AD]

#### Airworthiness Directives; SOCATA Groupe AEROSPATIALE TBM 700 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain SOCATA Groupe AEROSPATIALE (Socata) TBM 700 airplanes. The proposed action would require installing four rivets on the right side of the rudder and drilling drainage holes at the areas of the elevators and rudder. Reports of water accumulating in the areas of the elevators and rudder and a report of a bonding defect between the