

This rule will become effective 30 days after this publication pursuant to 5 U.S.C. 553(d). Further, this rule has been reviewed to ensure accordance with Executive Orders 12988 and 12866. This rule will not cause a significant economic impact or other substantial effect on small entities. Therefore, the requirements of this Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, do not apply.

List of Subjects in 7 CFR part 3701

Freedom of Information.

Accordingly, 7 CFR part 3701 is revised to read as follows:

PART 3701—PUBLIC INFORMATION

Sec.

3701.1 General statement.

3701.2 Public inspection, copying, and indexing.

3701.3 Requests for records.

3701.4 Multitrack processing.

3701.5 Denials.

3701.6 Appeals.

3701.7 Requests for published data and information.

Authority: 5 U.S.C. 301, 552; 7 CFR part 1, subpart A and appendix A thereto. § 3701.1 *General statement.*

This part is issued in accordance with the regulations of the Secretary of Agriculture in part 1, subpart A of this title and appendix A thereto, implementing the Freedom of Information Act (FOIA) (5 U.S.C. 552). The Secretary's regulations, as implemented by the regulations in this part, govern the availability of records of the Economic Research Service (ERS) to the public.

§ 3701.2 Public inspection, copying, and indexing.

5 U.S.C. 552(a)(2) requires that certain materials be made available for public inspection and copying and that a current index of these materials be published quarterly or otherwise be made available. Members of the public may request access to such materials maintained by ERS at the following office: Information Staff, ARS, REE, USDA, Room 1-2248, Mail Stop 5128, 5601 Sunnyside Avenue, Beltsville, MD 20705-5128; Telephone (301) 504-1640 or (301) 504-1655; TTY-VOICE (301) 504-1743. Office hours are 8 a.m. to 4:30 p.m. Information maintained in our electronic reading room can be accessed at <http://www.ars.usda.gov/is/foia/#Electronic>.

§ 3701.3 Requests for records.

Requests for records of ERS under 5 U.S.C. 552(a)(3) shall be made in accordance with § 1.5 of this title and submitted to the FOIA Coordinator,

Information Staff, ARS, REE, USDA, Mail Stop 5128, 5601 Sunnyside Avenue, Beltsville, MD 20705-5128; Telephone (301) 504-1640 or (301) 504-1655; TTY-VOICE (301) 504-1743; Facsimile (301) 504-1648; e-mail vherberger@ars.usda.gov or shutchison@ars.usda.gov. The FOIA Coordinator is delegated authority to make determinations regarding such requests in accordance with § 1.3(c) of this title.

§ 3701.4 Multitrack processing.

(a) When ERS has a significant number of requests, the nature of which precludes a determination within 20 working days, the requests may be processed in a multitrack processing system, based on the date of receipt, the amount of work and time involved in processing the request, and whether the request qualifies for expedited processing.

(b) ERS may establish as many processing tracks as appropriate; processing within each track shall be based on a first-in, first-out concept, and rank-ordered by the date of receipt of the request.

(c) A requester whose request does not qualify for the fastest track may be given an opportunity to limit the scope of the request in order to qualify for the fastest track. This multitrack processing system does not lessen agency responsibility to exercise due diligence in processing requests in the most expeditious manner possible.

(d) ERS shall process requests in each track on a "first-in, first-out" basis, unless there are unusual circumstances as set forth in § 1.16 of this title, or the requester is entitled to expedited processing as set forth in § 1.9 of this title.

§ 3701.5 Denials.

If the FOIA Coordinator determines that a requested record is exempt from mandatory disclosure and that discretionary release would be improper, the FOIA Coordinator shall give written notice of denial in accordance with § 1.7(a) of this title.

§ 3701.6 Appeals.

Any person whose request is denied shall have the right to appeal such denial. Appeals shall be made in accordance with § 1.14 of this title and should be addressed as follows: Administrator, ERS, U.S. Department of Agriculture, Washington, DC 20250.

§ 3701.7 Requests for published data and information.

Published data and reports produced by ERS since 1996 are available on the ERS Web site at <http://www.ers.usda.gov>.

Searching on the website is available by topic, by title, or by date. The titles displayed in the search include ERS's separately published research reports as well as articles in ERS-produced periodicals. Full text of all the titles are available at no cost (usually in PDF Files). Printed copies and reports published before 1996 (while supplies last) can be purchased from the ERS-NASS sales desk at the National Technical Information Center at 1-800-999-6779 (8:30 a.m.-5 p.m., Eastern Standard Time, M-F).

Done at Washington, DC, this 31st day of October 2001.

Susan Offutt,

Administrator, Economic Research Service.

[FR Doc. 01-28836 Filed 11-16-01; 8:45 am]

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DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE-RM-93-801]

RIN 1904-AB03

Energy Conservation Program for Consumer Products: Amendment to the Definition of "Electric Refrigerator"

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

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE or Department) is amending the definition of *Electric refrigerator* in its energy conservation program regulations to include a maximum temperature of the fresh food storage compartment, and to exclude certain appliances whose physical configuration makes them unsuitable for general storage of perishable foods.

EFFECTIVE DATE: December 19, 2001.

FOR FURTHER INFORMATION CONTACT: Michael G. Raymond, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE-43, 1000 Independence Avenue, SW, Washington, DC 20585-0121, phone (202) 586-9611 or by e-mail at michael.raymond@ee.doe.gov.

Francine Pinto, U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC-72, 1000 Independence Avenue, SW, Washington, DC 20585, phone (202) 586-7432.

SUPPLEMENTARY INFORMATION:

I. Background and Introduction

DOE received requests from several manufacturers of wine coolers, including Danby Products, Ltd. and the Witt Company, seeking exemptions from the refrigerator energy efficiency standards for wine coolers. These products are configured with special storage racks for wine bottles and in general do not attain as low a storage temperature as a standard refrigerator. These characteristics make them unsuitable for general long-term storage of perishable foods. Wine coolers also have glass front doors which makes them less energy efficient than standard refrigerators.

On July 13, 1999, DOE published a Notice of Proposed Rulemaking (NPR) to amend the definition of the term "electric refrigerator." 64 FR 37706. The Department proposed to amend the definition of electric refrigerator at 10 CFR 430.2 to exclude wine coolers from coverage by the energy efficiency regulations. Sales of these products are small and excluding them from coverage would not have any significant impacts.

DOE proposed to exclude wine coolers by including an upper temperature limit in the definition of electric refrigerator. The refrigerator definition contains the phrase "designed for the refrigerated storage of food at temperatures above 32° F." Clearly, not all temperatures above 32° F would be suitable for the refrigerated storage of food. What is lacking in the definition is a temperature range suitable for food storage for a reasonable length of time. The "American National Standard—Household Refrigerators/Household Freezers," ANSI/AHAM HRF-1-1988, Section 7.6.5.1, "Recommended Level of Performance" states: "It is recommended that in the fresh food compartment of household refrigerators, an average temperature within the range of 34° F and 41° F be attainable between the coldest and warmest settings of the controls. * * *". Also, from the same paragraph, "Refrigerator-freezer design and development engineers believe 41° F to be a very practical but not absolute upper limit."

Accordingly, the Department proposed to change the definition of a refrigerator to include the 41° F upper limit, and to exclude refrigerators containing special storage racks only. By the proposed definition, appliances which, at the coldest setting of the controls, could not attain a fresh food compartment temperature below 41° F, and contained only special-purpose storage racks, would not be considered a refrigerator and, therefore, not a

covered product. The definition proposed by the Department was:

"*Electric refrigerator* means a cabinet designed for the refrigerated storage of food at temperatures above 32° F and below 41° F, configured for general refrigerated food storage, and having a source of refrigeration requiring single phase, alternating current electric energy input only. An electric refrigerator may include a compartment for the freezing and storage of food at temperatures below 32° F, but does not provide a separate low temperature compartment designed for the freezing and storage of food at temperatures below 8° F."

II. Discussion

In response to the July 13, 1999, NPR, the Department received two comments. The Association of Home Appliance Manufacturers (AHAM) supported the proposed rule, but recommended that the upper temperature limit be lowered from 41° F to 38° F. AHAM stated "this revision is necessary to accommodate the temperatures needed for champagne and other sparkling wines and to avoid unnecessary government imposed limits on technological and commercial development. 38° F also is the rating point for an "all-refrigerator" and, therefore, using that limit sets the appropriate divider." The Sub-Zero Freezer Company also recommended lowering the upper temperature limit from 41° F to 38° F.

As AHAM and Sub-Zero stated, 38° F is the rating point for the all-refrigerator in the DOE test procedure. It is also the rating point for variable defrost control refrigerators. The purpose of the revised definition of an electric refrigerator is to exclude wine coolers, not all-refrigerators or variable defrost control refrigerators. For this reason, the Department does not want to set the upper limit temperature at 38° F. In order to accommodate concerns about temperatures for the storage of champagne and sparkling wines, we have decided to lower the defined upper temperature limit from 41° F to 39° F. The Department today revises the definition of an electric refrigerator (10 CFR Part 430.2 Definitions), as follows: *Electric refrigerator* means a cabinet designed for the refrigerated storage of food at temperatures above 32° F and below 39° F, configured for general refrigerated food storage, and having a source of refrigeration requiring single phase, alternating current electric energy input only. An electric refrigerator may include a compartment for the freezing and storage of food at temperatures below 32° F, but does not

provide a separate low temperature compartment designed for the freezing and storage of food at temperatures below 8° F.

III. Procedural Issues and Regulatory Review

A. Review Under the National Environmental Policy Act

The Department has reviewed this rule under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq., the regulations of the Council on Environmental Quality, 40 CFR parts 1500-1508, the Department's regulations for compliance with NEPA, 10 CFR part 1021, and the Secretarial Policy on the National Environmental Policy Act (June 1994). DOE has concluded that this rule is covered under the Categorical Exclusion in paragraph A5 to subpart D, 10 CFR part 1021, which applies to rulemakings that interpret or amend an existing regulation without changing the environmental effect of the regulation. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

B. Review Under Executive Order 12866, "Regulatory Planning and Review"

This regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs in the Office of Management and Budget.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601, requires an assessment of the impact of regulations on small businesses. Small businesses are those firms within an industry that are privately owned and less dominant in the market and that meet the size standards for small concerns promulgated by the Small Business Administration. A regulatory flexibility analysis examines the impact of the rule on small entities and considers alternative ways of reducing negative impacts. The regulatory flexibility analysis requirement does not apply if the head of an agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605. Today's final rule redefines the term "electric refrigerator" to exclude wine coolers. This change to the definition was requested by small

manufacturers of wine coolers for their benefit, and no negative impact on any small manufacturer is foreseen. Accordingly, DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities.

D. Review Under the Paperwork Reduction Act

No new information or record keeping requirements are imposed by this rulemaking. Accordingly, no Office of Management and Budget clearance is required under the Paperwork Reduction Act. 44 U.S.C. 3501 *et seq.*

E. Review Under Executive Order 12988, "Civil Justice Reform"

With respect to the review of existing regulations and the promulgation of new regulations, Section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE reviewed today's final rule under the standards of section 3 of the Executive Order and determined that, to the extent permitted by law, the final regulations meet the relevant standards.

F. "Takings" Assessment Review

DOE has determined pursuant to Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," 52 FR 8859 (March 18, 1988), that this regulation would not result in

any takings that might require compensation under the Fifth Amendment to the United States Constitution.

G. Review Under Executive Order 13132

Executive Order 13132 "Federalism," 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. Agencies also must have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. DOE published its intergovernmental consultation policy on March 14, 2000. (65 FR 13735). Today's final rule only changes the definition of an electric refrigerator and it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

H. Review Under the Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4 ("Unfunded Mandates Act") requires that the Department prepare an assessment of costs and benefits before promulgating a rule that includes a Federal mandate that may result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. The written assessment must include: (i) Identification of the Federal law under which the rule is promulgated; (ii) a qualitative and quantitative assessment of anticipated costs and benefits of the Federal mandate and an analysis of the extent to which such costs to state, local, and tribal governments may be paid with Federal financial assistance; (iii) if feasible, estimates of the future compliance costs and of any disproportionate budgetary effects the mandate has on particular regions, communities, non-Federal units of government, or sectors of the economy; (iv) if feasible, estimates of the effect on the national economy; and (v) a description of the Department's prior consultation with elected representatives of state, local, and tribal governments and a summary and evaluation of the comments and

concerns presented. The Department has determined that today's final rule does not include a Federal mandate that may result in estimated costs of \$100 million or more to state, local or to tribal governments in the aggregate or to the private sector. Therefore, the requirements of Sections 203 and 204 of the Unfunded Mandates Act do not apply to this action.

I. Review Under the Treasury and General Government Appropriations Act of 1999

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

J. Review Under Executive Order 13211

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," (66 FR 28355, May 22, 2001) requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to the promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Today's final rule will not have a significant adverse effect on the supply, distribution, or the use of energy, and, therefore, is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

K. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of today's final rule prior

to the effective date set forth at the outset of this notice. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 801(2).

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

Issued in Washington, DC, on November 14, 2001.

Douglas L. Faulkner,

Principal Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, Part 430 of Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

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

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

2. Section 430.2 is amended by revising the definition for *Electric refrigerator* to read as follows:

§ 430.2 Definitions.

* * * * *

Electric refrigerator means a cabinet designed for the refrigerated storage of food at temperatures above 32° F and below 39° F, configured for general refrigerated food storage, and having a source of refrigeration requiring single phase, alternating current electric energy input only. An electric refrigerator may include a compartment for the freezing and storage of food at temperatures below 32° F, but does not provide a separate low temperature compartment designed for the freezing and storage of food at temperatures below 8° F.

* * * * *

[FR Doc. 01–28822 Filed 11–16–01; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks; Change in Discount Rate

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A, Extensions of

Credit by Federal Reserve Banks to reflect its approval of a decrease in the basic discount rate at each Federal Reserve Bank. The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks.

DATES: The amendments to part 201 (Regulation A) were effective November 6, 2001. The rate changes for adjustment credit were effective on the dates specified in 12 CFR 201.51.

FOR FURTHER INFORMATION CONTACT:

Jennifer J. Johnson, Secretary of the Board, at (202)452-3259, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of sections 10(b), 13, 14, 19, et al., of the Federal Reserve Act, the Board has amended its Regulation A (12 CFR part 201) to incorporate changes in discount rates on Federal Reserve Bank extensions of credit. The discount rates are the interest rates charged to depository institutions when they borrow from their district Reserve Banks.

The "basic discount rate" is a fixed rate charged by Reserve Banks for adjustment credit and, at the Reserve Banks' discretion, for extended credit for up to 30 days. In decreasing the basic discount rate from 2.0 percent to 1.5 percent, the Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks. The new rates were effective on the dates specified below. The 50-basis-point decrease in the discount rate was associated with a similar decrease in the Federal funds rate approved by the Federal Open Market Committee (FOMC) and announced at the same time.

In a joint press release announcing these actions, the FOMC and the Board of Governors stated that heightened uncertainty and concerns about a deterioration in business conditions both here and abroad are damping economic activity. For the foreseeable future, then, the Committee continues to believe that, against the background of its long-run goals of price stability and sustainable economic growth and of the information currently available, the risks are weighted mainly toward conditions that may generate economic weakness. Although the necessary reallocation of resources to enhance security may restrain advances in productivity for a time, the long-term prospects for productivity growth and the economy remain favorable and should become evident once the

unusual forces restraining demand abate.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the change in the basic discount rate will not have a significant adverse economic impact on a substantial number of small entities. The rule does not impose any additional requirements on entities affected by the regulation.

Administrative Procedure Act

The provisions of 5 U.S.C. 553(b) relating to notice and public participation were not followed in connection with the adoption of the amendment because the Board for good cause finds that delaying the change in the basic discount rate in order to allow notice and public comment on the change is impracticable, unnecessary, and contrary to the public interest in fostering price stability and sustainable economic growth. The provisions of 5 U.S.C. 553(d) that prescribe 30 days prior notice of the effective date of a rule have not been followed because section 553(d) provides that such prior notice is not necessary whenever there is good cause for finding that such notice is contrary to the public interest. As previously stated, the Board determined that delaying the changes in the basic discount rate is contrary to the public interest.

List of Subjects in 12 CFR Part 201

Banks, banking, Credit, Federal Reserve System.

For the reasons set out in the preamble, 12 CFR part 201 is amended as set forth below:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

1. The authority citation for 12 CFR part 201 continues to read as follows:

Authority: Authority: 12 U.S.C. 343 et seq., 347a, 347b, 347c, 347d, 348 et seq., 357, 374, 374a and 461.

2. Section 201.51 is revised to read as follows:

§ 201.51 Adjustment credit for depository institutions.

The rates for adjustment credit provided to depository institutions under § 201.3(a) are:

Federal Reserve Bank	Rate	Effective
Boston	1.5	November 8, 2001