Environmental NGO Comments on Draft Omnibus Amendment to 2019 Energy Labelling Regulations

3 November 2020

The following document contains views on the proposed changes to 2019 Energy Labelling regulations as well as those which are shared with the 2019 regulations on Ecodesign. A separate position paper is submitted in relation to proposed changes that pertain only to Ecodesign.

General comments

We fully agree with the need for unequivocal wording and provisions in order to facilitate timely and uniform implementation of the implementing measures and therefore **support the intention of the regulator to correct technical errors and improve the accuracy, consistency and cross-referencing across regulatory texts**. With the exception of a few technical comments which we highlight below and which we believe should be addressed by the regulator, we are happy to support the adoption of the proposed changes. We note, however, that is important to ensure consistency between Ecodesign and Energy Labelling regulations, and would therefore call for any provision that is changed in the Energy Labelling delegated regulations to be reflected in the corresponding regulation on Ecodesign whenever relevant.

Verification tolerances

We support the clarification introduced across the regulations as regards the meaning of 'verification tolerances'. However, in order to provide further clarity and avoid situations where the absence of a verification tolerance is considered an obstacle to performing surveillance checks, the following change in wording is proposed across regulations:

'The verification tolerances defined in this Annex relate only to the verification by Member State authorities of the declared values and shall not be used by the manufacturer, importer or authorised representative as an allowed tolerance to establish the values in the technical documentation or interpreting these values with a view to achieving compliance or to communicate better performance by any means. ***In the absence of a specified verification tolerance for a parameter, a tolerance will be assumed and documented that is considered appropriate, taking into account the measurement equipment used and the magnitude of the parameter being measured or otherwise assessed.****'*

Subject	Proposed change by the Commission in latest draft	Comments	Proposed action
Changes that concern both Ecodesign and Energy Labelling Regulations			
Transitional methods (Annex IIIa, Regulation (EU) 2019/2021; Annex IV, Regulation (EU) 2019/2013)	New section on transitional methods added.	**We support the inclusion of transitional methods** in Annex IIIa of Regulation 2019/2021 and Annex IV of Regulation 2019/2013. In particular, **we strongly support the following aspects** being referenced: - **Video sequence for power measurement**: replacement of the video sequence described in EN62087-2:2016 with the updated 10-minute dynamic broadcast video sequence specifically provided for the purpose; - **Enabling of HDR**: requirement for the HDR to be enabled before testing; - **Test pattern for screen luminance measurement for ABC**: improved test pattern, allowing to avoid power limiting effects to be triggered during luminance measurement; - **Test equipment for ABC test**: the specified use of a solid-state projector light source and the corresponding tilting mounting platform. **We have the following observations** aimed at improving the clarity of the proposed transitional methods: Firstly, **Figure 1 "Example of a compliant menu and warning implementation"** is referenced but not present in the proposed regulatory text. There have been notable issues in the previous draft of this figure, previously distributed together with the draft standardisation request for displays. In that version, if the user were to select an alternative configuration that did not increase the power consumption compared to normal configuration and then selected another mode that went above the normal configuration power level, no warning were to be provided. The regulation specifies that for	1. Include Figure 1 "Example of a compliant menu and warning implementation" in the text of the transitional methods, as suggested in the annex of this document. 2. Review the use of 'should' and 'shall' clauses across the specified transitional methods to ensure consistency and that all key requirements are properly implemented during testing.

		higher power configurations a warning should be displayed – and does not specify a sequence relating to this. A suggested figure that is in line with the regulatory requirements is proposed in the annex of this document. Secondly, **the use of 'should' and 'shall' clauses in the text of the transitional methods is inconsistent**, and on a number of occasions the 'should' clauses are likely to lead to important testing consideration not being properly taken into account by manufacturers and/or market surveillance authorities. We strongly invite the regulator to review transitional test methods in order to ensure that all key considerations are accompanied with a 'shall' clause.	

Household washing machines and washer-driers – ecodesign and energy labelling – 2019/2023 and 2019/2014

Subject	Proposed change by the Commission in latest draft	Comments	Proposed action
Changes that concern both Ecodesign and Energy Labelling Regulations			
Low power modes (Annex III, Point 8, Regulation (EU) 2019/2013; Annex IV, Point 9, Regulation (EU) 2019/2014)	*"**Where applicable**, the power consumption of the off mode (Po), standby mode (Psm) and ~~where applicable~~ delay start (Pds) are measured."*	Inserting 'where applicable' at the start of the provision opens the possibility for a supplier to imagine that their washing machine has no 'off mode' or 'standby mode' and therefore is not subject to performance and reporting obligations. In line with the intent of the requirement, as stipulated in EN 60456:2020 Annex ZA, these modes are simply equal to the power consumption after 15 minutes from switch on with no interactions and therefore applicable in every case – whether or not the mode is declared by the supplied to be a 'feature'. As a result, the **proposed change opens an unintended loophole**.	Revert to the original wording: *"The power consumption of the off mode (Po), standby mode (Psm) and **where applicable** delay start (Pds) are measured."*
Changes that concern Energy Labelling Regulation only			
Model identifier (Annex V, Table 5)	New footnote (a) is added which determines that changes to the supplier's name or trademark, supplier's address, **model identifier**, airborne acoustical	It is our view that if the 'model identifier' is changed, then this will directly impact the equivalent models listing. As a result, **model identifier cannot be considered irrelevant to Article 2(6) of Regulation (EU) 2017/1369 in all cases**. If a model was listed, a	Disapply footnote (a) from row 3 "model identifier".

	noise measurement (but not noise class), duration of guarantee and weblink are not relevant for the definition of equivalent model for the purposes of Regulation (EU) 2017/1369.	change to the model identifier means that a new equivalent model has been created and therefore the equivalent model list must be updated.	

Electrical lamps and luminaires – ecodesign and energy labelling – 2019/2020 and 2019/2015

Subject	Proposed change by the Commission in latest draft	Comments	Proposed action
Changes that concern both Ecodesign and Energy Labelling Regulations			
Definition of containing product (Article 4, Regulation (EU) 2019/2020; Article 3, Regulation (EU) 2019/2015)	Regulation 2019/2020: *'containing product' means a product containing one or more light sources, or separate control gears, or both, including luminaires that can be taken apart to allow separate verification of the contained light source(s), household appliances containing light source(s), furniture (shelves, mirrors, display cabinets) containing light source(s).* ~~*If a containing product cannot be taken apart for verification of the light source and separate control gear, the entire containing product is to be considered a light source*~~ Regulation 2019/2015*:* *'containing product' means a product containing one or more light sources, or separate control gears, or both. Examples of containing products are luminaires that can be taken apart to allow separate verification of the*	**We do not support the removal of the last sentence,** which was inserted during the drafting stage of the implementing measure to have luminaires that can be accessed by standard maintenance personnel and have such major components as the LED light engine, the driver electronics, control and other circuits, and any other components such as gaskets or optical lenses, replaced should they be damaged. The requirement of having containing products that could not be taken apart to be treated as light sources was an incentive for manufacturers to continue to make lighting products serviceable. **We fear that the taking away of this sentence will fundamentally alter the intent of the regulation**, encouraging non-serviceable, integrated light sources and promoting disposable luminaires, thus running counter to the goals of achieving increased resource efficiency and circularity in products.	Revert to the original and align the definition in the two regulations: *'containing product' means a product containing one or more light sources, or separate control gears, or both. Examples of containing products are luminaires that can be taken apart to allow separate verification of the contained light source(s), household appliances containing light source(s), furniture (shelves, mirrors, display cabinets) containing light source(s)****. If a containing product cannot be taken apart for verification of the light source and separate control gear, the entire containing product is to be considered a light source****;*

	contained light source(s), household appliances containing light source(s), furniture (shelves, mirrors, display cabinets) containing light source(s). ~~If a containing product cannot be taken apart for verification of the light source and separate control gear, the entire containing product is to be considered a light source~~		

Household refrigerating appliances – ecodesign and energy labelling – 2019/2019 and 2019/2016

Subject	Proposed change by the Commission in latest draft	Comments	Proposed action
Changes that concern both Ecodesign and Energy Labelling Regulations			
Definition of mobile refrigerating appliance (Article 2, Regulation (EU) 2019/2019; Article 2, Regulation (EU) 2019/2016)	*'mobile refrigerating appliance' means a refrigerating appliance that can be used where there is no access to the mains electricity grid and that uses extra low-voltage electricity (< 120V DC) or fuel or both as the energy source for the refrigeration functionality, including a refrigerating appliance that, in addition to extra low voltage electricity or fuel, or both, can be electric mains operated **via an external AC/DC converter to be purchased separately**. An appliance placed on the market with an AC/DC converter is not a mobile refrigerating appliance;*	**We fear that the text as drafted effectively bans genuine mobile appliances** that have either an integrated or an external AC to DC converter due to them being very unlikely to meet the minimum energy performance requirements.	Change proposed amendment as follows: *'mobile refrigerating appliance' means a refrigerating appliance that can be used where there is no access to the mains electricity grid and that uses extra low-voltage electricity (< 120V DC) or fuel or both as the energy source for the refrigeration functionality, including a refrigerating appliance that, in addition to extra low voltage electricity or fuel, or both, can be electric mains operated **via an integrated or external AC to DC converter**. An **AC mains operated** appliance placed on the market with **a DC to AC converter** is not a mobile refrigerating appliance;*
Verification tolerances (Annex IV, Regulation (EU) 2019/2019; Annex IX, Regulation (EU) 2019/2016)	Verification tolerance removed for E_{16} and E_{aux} parameters in both regulations, and temperature rise time tolerance added to the Ecodesign Regulation	**We support changes proposed to the annexes of the two regulations related to verification tolerances**. It is our understanding that the application of verification tolerance to the assessment of E_{32} value and the annual energy consumption will be enough to verify the appliance along with the other parameters, so long as E_{16} and E_{aux} are included in the technical documentation.	Accept proposed changes.

Changes that concern Energy Labelling Regulation only			
Model identifier (Annex V, Table 6)	New footnote (d) is added which determines that changes to the supplier's name or trademark, supplier's address, **model identifier** and weblink are not relevant for the definition of equivalent model for the purposes of Regulation (EU) 2017/1369.	It is our view that if the 'model identifier' is changed, then this will directly impact the equivalent models listing. As a result, **model identifier cannot be considered irrelevant to Article 2(6) of Regulation (EU) 2017/1369 in all cases**. If a model was listed, a change to the model identifier means that a new equivalent model has been created and therefore the equivalent model list must be updated.	Disapply footnote (d) from row 3 "model identifier".
Technical documentation (Annex VI, Point 1)	A number of addition items and additional clarity are added to the technical documentation requirements.	**We welcome the proposed change** as this will ensure an improved implementation of the Energy Labelling Regulation and will put additional emphasis on requirements that are otherwise 'hidden' in the framework documents. We note that Point 1 of Annex VI unintentionally lists '*a list of all equivalent models, including model identifiers*' twice – under point (a) and again under point (g). We would suggest this to be corrected.	Accept proposed changes taking into account the proposed correction.

Household dishwashers – ecodesign and energy labelling – 2019/2022 and 2019/2017

Subject	Proposed change by the Commission in latest draft	Comments	Proposed action
Changes that concern both Ecodesign and Energy Labelling Regulations			
Low power modes (Annex III, Point 4, Regulation (EU) 2019/2022; Annex IV, Point 4, Regulation (EU) 2019/2017)	*"**Where applicable**, the power consumption of the off mode (Po), standby mode (Psm) and ~~where applicable~~ delay start (Pds) are measured."*	Inserting 'where applicable' at the start of the provision opens the possibility for a supplier to imagine that their dishwasher has no 'off mode' or 'standby mode' and therefore is not subject to performance and reporting obligations. In line with the intent of the requirement, as stipulated in EN 60436:2020 Annex ZA, these modes are simply equal to the power consumption after 15 minutes from switch on with no interactions and therefore applicable in every case – whether or not the mode is declared by the supplied to be a 'feature'. As a result, the **proposed change opens an unintended loophole**.	Revert to the original wording: *"The power consumption of the off mode (Po), standby mode (Psm) and **where applicable** delay start (Pds) are measured."*
Changes that concern Energy Labelling Regulation only			

Model identifier (Annex V, Table 3)	New footnote (a) is added which determines that changes to the supplier's name or trademark, supplier's address, **model identifier**, airborne acoustical noise measurement (but not noise class), duration of guarantee and weblink are not relevant for the definition of equivalent model for the purposes of Regulation (EU) 2017/1369.	It is our view that if the 'model identifier' is changed, then this will directly impact the equivalent models listing. As a result, **model identifier cannot be considered irrelevant to Article 2(6) of Regulation (EU) 2017/1369 in all cases**. If a model was listed, a change to the model identifier means that a new equivalent model has been created and therefore the equivalent model list must be updated.	Disapply footnote (a) from row 3 "model identifier".
Technical documentation (Annex VI, Point 1)	A number of addition items and additional clarity are added to the technical documentation requirements.	**We welcome the proposed change** as this will ensure an improved implementation of the Energy Labelling Regulation and will put additional emphasis on requirements that are otherwise 'hidden' in the framework documents. We note that Point 1 of Annex VI unintentionally lists '*a list of all equivalent models, including model identifiers*' twice – under point (a) and again under point (g). We would suggest this to be corrected.	Accept proposed changes taking into account the proposed correction.

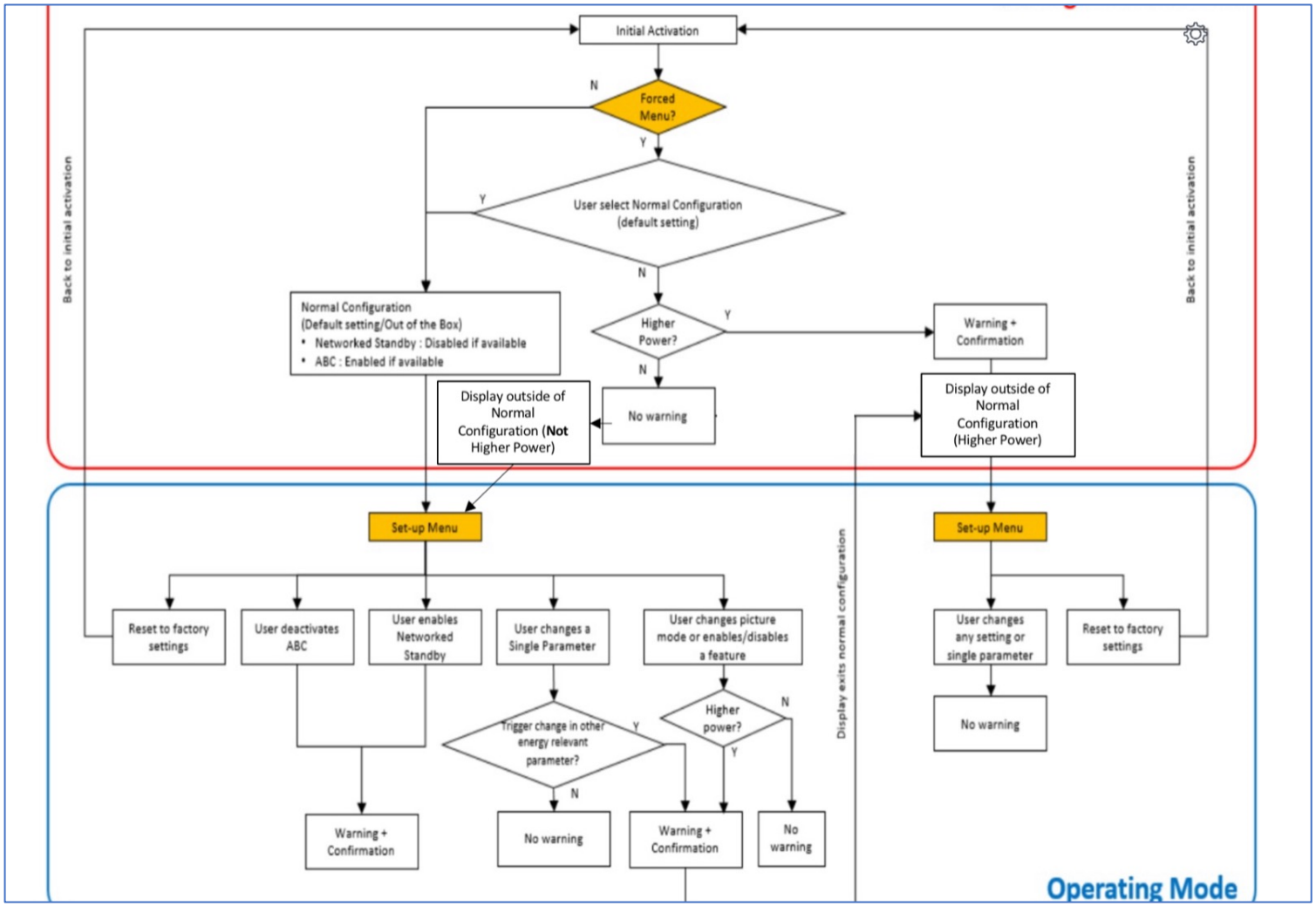
Refrigerating appliances with a direct sales function – ecodesign and energy labelling – 2019/2024 and 2019/2018

Subject	Proposed change by the Commission in latest draft	Comments	Proposed action
Changes that concern both Ecodesign and Energy Labelling Regulations			
Carousel cabinets (Articles 1(3) and 2, Regulation (EU) 2019/2024; Articles 1(2) and 2, Regulation (EU) 2019/2018)	<u>Article 1(2) / Article 1(3):</u> *' corner**, curved and carousel** cabinets'* <u>Article 2</u> *'corner, curved and carousel cabinets' means a refrigerating appliance with a direct sales function used to achieve geometrical continuity between two linear cabinets that are at an*	**We see two issues with the addition of the term 'carousel' in the proposed exemption**. Firstly, the term 'carousel' does not fit within the definition as drafted, as it is not 'wedge' shaped or similar'. Moreover, carousel cabinets are designed to function as a stand-alone refrigerated unit. Secondly, the term 'carousel' is used in EN 50597 for a type of vending machine that is also within the scope of this regulation (see annex of this document for an example), used for plated meals and other perishable foods.	1. Delete 'carousel' from this exemption and definition, referring only to 'corner and curved'; 2. Define circular cabinets for direct sales (which are the type of products here referred to as 'carousel') separately and, if appropriate, separately exclude them from the scope. If the word 'carousel' is retained, qualify it as 'carousel or circular-type supermarket cabinet' to avoid confusion with carousel-type vending machines.

	angle to each other and/or that form a curve. A corner, ***curved and carousel cabinets*** *do not have a recognisable longitudinal axis or length since it consists only of a filling shape (wedge or similar) and is not designed to function as a stand-alone refrigerated unit. The two ends of the corner cabinet are inclined at an angle of between 30° and 90°*		
Temperature class for M0 (Annex III, Table 5, Regulation (EU) 2019/2024; Annex IV, Table 4, Regulation (EU) 2019/2018)	Temperature class for M0 is added with associated values for factor C.	This cabinet temperature class is becoming more widely used across EU member states and is focused on closer temperature control and higher standards of food safety – it is therefore appropriate to include it. The C-factors are used to adjust the thresholds for the slightly varying storage temperatures M1, M2, M0; energy demand is linearly and inversely proportional to storage temperature. Based on typical achieved storage temperatures, a linear proportionality would, however, imply an M0 C-factor for vertical cabinets of 1,22 (and not 1,3 as proposed, see annex of this document for additional evidence). **The C-factor value of 1,3 would allocate energy labels and minimum energy performance requirements that are too lenient for M0 vertical cabinets and would mislead buyers by allowing M0 cabinets to achieve a better energy class while actually consuming more energy than an equivalent design of M2 cabinet.**	Change C-factor M0 for vertical cabinets to 1,22 (currently proposed as 1,3) in order to be consistent with the other C-factors and avoid unduly lenient minimum energy performance requirements for M0 vertical cabinets.
Changes that concern Energy Labelling Regulation only			
Maximum product temperature of the compartment (Annex III, Point 1.2, Paragraph VIII)	*– the temperature at the top: the maximum measured product temperature of the compartment(s) wit chilled operating temperatures, in degrees Celsius (°C) and rounded to the first decimal place, as set out in Table 4*	**We support the provision** in order to increase the accuracy of the reported data, even if practical practical reliability of the measurement is unlikely to merit this. We do, however, wonder why the same changes are not made to lower temperature.	Accept proposed change, but consider extending it to lower temperatures. Correct typo in the text by the use of “wit” instead of “with.”

Annex I – Electronic displays and televisions – suggested example of a compliant menu and warning implementation

The proposed chart below would ensure that warnings occur when there is a change from alternative configurations that do not exceed normal mode energy consumption. This is consistent with the regulation, which does not specify that the warning only occurs when changing from normal configuration, but when the user changes (without specifying the mode they are currently in) to a mode that is not the normal configuration and that has a higher power demand.



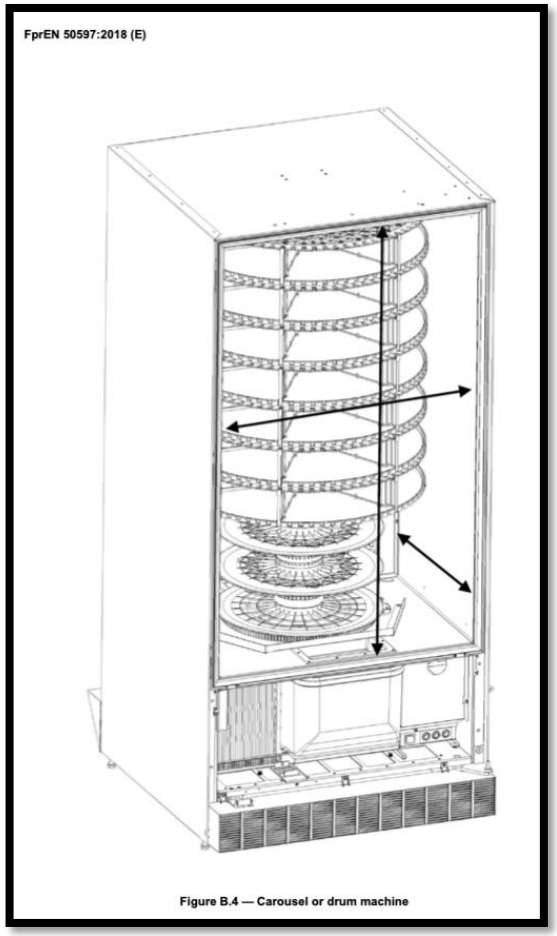


Figure 1a: (left) a carousel type vending machine (from EN 50597). Figure 1b (right) a circular 'carousel' type refrigerated retail display cabinet for supermarkets

Annex III – Refrigerated appliances with a direct sales function – supporting evidence in relation to temperature class for M0

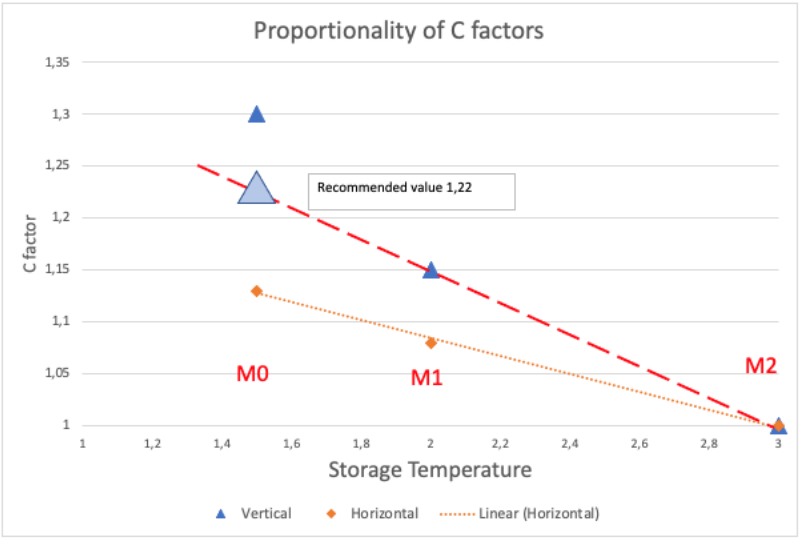


Table 32. Estimated average M-package temperature (°C) for each EN ISO M-package temperature class

	M-package temperature class							
	3H1	3H2	3M2	3M1	3M0	3L1	3L2	3L3
Estimated average temperature (°C)	+5.5	+4.5	+3.0	+2.0	+1.5	−16.5	−15.0	−13.5
ANSI/AHRI 1200 average temperature (°C)	+3.3	+3.3	+3.3	+3.3	+3.3	−18.0	−18.0	−18.0

Figure 2a (left) – Proportionality of C-factors for M0, suggesting that a value of 1,22 for vertical cabinets is consistent with the already established C-factors, based on proportionality of storage temperatures. Figure 2b (right) - Typical storage temperatures are from a CLASP study[1].

[1] CLASP, 'Benchmarking Analysis Compares Efficiency of Commercial Refrigeration Equipment Across Nine Economies', 2014, available at: https://clasp.ngo/publications/benchmarking-analysis-compares-efficiency-of-commercial-refrigeration-equipment-across-nine-economies.