

establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are "influential scientific information." The Bulletin defines "influential scientific information" as "scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions." 70 FR 2667 (January 14, 2005).

In response to OMB's Bulletin, DOE conducted formal in-progress peer reviews of the energy conservation standards development process and analyses and has prepared a Peer Review Report pertaining to the energy conservation standards rulemaking analyses. The "Energy Conservation Standards Rulemaking Peer Review Report," dated February 2007, has been disseminated and is available at http://www.eere.energy.gov/buildings/appliance_standards/peer_review.html.

VI. Approval of the Office of the Assistant Secretary

The Assistant Secretary for Energy Efficiency and Renewable Energy has approved publication of this final rule.

Issued in Washington, DC, on May 7, 2010.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

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DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE-2010-BT-CRT-0017]

RIN 1904-AC10

Energy Conservation Program: Web-Based Compliance and Certification Management System

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

ACTION: Final rule.

SUMMARY: This final rule: provides a new means for manufacturers and third party representatives to prepare and submit compliance and certification reports to the Department of Energy (DOE) through an electronic Web-based

tool, the Compliance and Certification Management System (CCMS), which will be the preferred mechanism for submitting compliance and certification reports; allows compliance and certification reports to be submitted via e-mail; and updates the address and contact information used to submit compliance statements and certification reports through certified mail to DOE.

DATES: Effective Date: This final rule is effective June 1, 2010.

ADDRESSES: For access to the docket and to read background material, visit the U.S. Department of Energy, Resource Room of the Building Technologies Program, 950 L'Enfant Plaza, SW., 6th Floor, Washington, DC, 20024, (202) 586-2945, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at the above telephone number for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles Llenza, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 286-2192. E-mail: Charles.Llenza@ee.doe.gov.

Ms. Betsy Kohl, U.S. Department of Energy, Office of General Counsel, GC-71, Forrestal Building, GC-71, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-7796. E-mail:

Elizabeth.Kohl@hq.doe.gov.

SUPPLEMENTARY INFORMATION: DOE establishes that compliance statements and certification reports may be submitted to DOE through any of the following means:

1. Compliance and Certification Management System (CCMS)—via the Web portal: <http://regulations.doe.gov/ccms>. Follow the instructions on the CCMS Web site for submitting compliance statements and certification reports. The CCMS is a tool for certification of compliance with applicable energy conservation standards. Submission of compliance statements and certification reports via the CCMS is preferred and will satisfy compliance and certification reporting requirements for DOE. For CCMS Help/Support Contact: Mr. Charles Llenza, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-2192. E-mail: Charles.Llenza@ee.doe.gov.

2. E-mail—*send to:* certification.report@ee.doe.gov and indicate in the subject line the manufacturer, the third party representative if applicable, and the specific product or equipment for which the report is being submitted.

3. Certified Mail—*send to:* Charles Llenza, Appliances and Commercial Equipment Standards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program (EE-2J), Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Include in the address the subject line: Compliance and Certification Management System.

Legislative Authority: Part A of Title III of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94-163, as amended, 42 U.S.C. 6291-6309, established the "Energy Conservation Program for Consumer Products Other Than Automobiles." Similarly, Part A-1 of Title III of EPCA, as amended, 42 U.S.C. 6311-6317, established an energy efficiency program for "Certain Industrial Equipment," which included certain commercial equipment.¹ EPCA requires each manufacturer of a covered product to submit information or reports to the Secretary with respect to energy efficiency, energy use, or, in the case of showerheads, faucets, water closets, and urinals, water use of such covered product and the economic impact of any proposed energy conservation standard, as DOE determines may be necessary to establish and revise test procedures, labeling rules, and energy conservation standards for such product and to ensure compliance with the requirements. In so doing, DOE must consider existing public sources, including nationally recognized certification programs of trade associations. See 42 U.S.C. 6296(d). Further, the Energy Policy Act of 2005 (EPACT 2005), Public Law 109-58, amended EPCA with respect to particular consumer products and commercial and industrial equipment by providing definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. EPACT 2005 also authorized DOE to require manufacturers of covered commercial and industrial equipment to submit information and reports for a variety of purposes, including ensuring

¹ For editorial reasons, Parts B (consumer products) and C (commercial equipment) of Title III of EPCA were re-designated as parts A and A-1, respectively, in the United States Code.

compliance with applicable energy conservation standards. *See* 42 U.S.C. 6316(a) and (b).

Initially, the CCMS database will be used only for the submission of compliance statements and certification reports for covered consumer products. Section 430.62 of the Code of Federal Regulations stipulates the requirements for manufacturers of particular consumer products regarding the submission of compliance and certification data to the DOE. Specifically, each manufacturer or private labeler before distributing in commerce any basic model of a covered product subject to the applicable energy conservation standard or water conservation standard (in the case of faucets, showerheads, water closets, and urinals) shall certify by means of a compliance statement and certification report that each basic model(s) meets the applicable energy or water conservation standard as prescribed in Section 325 of the Act. Additionally, DOE adopted a final rule on January 5, 2010 titled "Certification, Compliance, and Enforcement Requirements for Certain Consumer Products and Commercial and Industrial Equipment." 75 FR 652. This final rule adopted regulations to implement reporting requirements for energy conservation standards and energy use, and to address other matters, including compliance certification, prohibited actions, and enforcement procedures for specific consumer products (and commercial and industrial equipment) covered by EPACT 2005, as well as commercial heating, air-conditioning, and water heating equipment covered under EPACT 1992. In addition, DOE adopted provisions for manufacturer certification for distribution transformers (also a type of commercial equipment).

Discussion: This rulemaking: (1) Implements an electronic Web-based tool known as the Compliance and Certification Management System (CCMS) to facilitate the development and submission of compliance statements and certification reports; (2) adds e-mail as a new option for submitting compliance statements and certification reports; and (3) updates the address and contact information for submitting compliance statements and certification reports by certified mail to DOE.

The CCMS is a Web-based tool to facilitate the preparation, submission, and processing of compliance statements and certification reports. DOE prefers use of CCMS for submitting these documents. Submission of the documents through CCMS will satisfy

reporting requirements for DOE. DOE believes that the CCMS will provide a convenient means for manufacturers and third party representatives to create, submit, and track the processing of compliance statements and certification reports and related information using customized, electronic product templates.

The electronic product templates will serve as a combined compliance statement and certification report and be available for covered consumer products for which compliance statements and certification reports are currently required. The CCMS database will be updated to allow for submission of compliance statements and certification reports required for other consumer products in the future, as well as for commercial and industrial equipment. User guides with step-by-step instructions and Helpdesk support will be provided to assist users of the CCMS. DOE believes the CCMS will streamline and reduce the burden of reporting requirements for manufacturers and third party representatives, as well as facilitate the processing of compliance/certification reports by DOE.

I. Procedural Requirements

A. Executive Order 12866

Today's regulatory action is not a "significant regulatory action" under section 3(f) of Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB).

B. Administrative Procedure Act

DOE finds good cause to waive notice and comment on these regulations pursuant to 5 U.S.C. 553(b)(3)(B), and the 30-day delay in effective date pursuant to 5 U.S.C. 553(d). Notice and comment are unnecessary and contrary to the public interest because this final rule does not require any new actions on the part of manufacturers and third-party representatives; rather it simply allows an alternative option for submission of information which is already required. A delay in effective date is unnecessary and contrary to the public interest for these same reasons. Therefore, these regulations are being published as final regulations and are effective June 1, 2010.

C. National Environmental Policy Act

DOE has determined that this rule falls into a class of actions that are categorically excluded from further

review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. This rule amends an existing rule without changing its environmental effect, and, therefore, is covered by the Categorical Exclusion A5 found in appendix A to subpart D, 10 CFR part 1021. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that must be proposed for public comment, unless the agency certifies that the rule will have no significant economic impact on a substantial number of small entities. As required by Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site at <http://www.gc.doe.gov>. Because a notice of proposed rulemaking is not required under the Administrative Procedure Act or other applicable law, the Regulatory Flexibility Act does not require certification or the conduct of a regulatory flexibility analysis for this rule.

E. Paperwork Reduction Act

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control number 1910-1400. Public reporting burden for submittals through CCMS is estimated to average 15 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Written comments regarding the burden-hour estimate or other aspects of the collection-of-information requirements contained in this final rule may be submitted to Mr. Charles Llenza, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-

2192 and by e-mail to Christine_Kymn@omb.eop.gov.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

F. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. For proposed regulatory actions likely to result in a rule that may cause expenditures by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish estimates of the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed "significant intergovernmental mandate." UMRA also requires an agency plan for giving notice and opportunity for timely input to small governments that may be affected before establishing a requirement that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA (62 FR 12820) (also available at <http://www.gc.doe.gov>). Today's final rule contains neither an intergovernmental mandate nor a mandate that may result in the expenditure of \$100 million or more in any year, so these requirements do not apply.

G. Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105-277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. Today's rule would have no impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is unnecessary to prepare a Family Policymaking Assessment.

H. 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. The executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. DOE has examined this final rule and determined that it would not preempt State law and would have no 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. Executive Order 13132 requires no further action.

I. Executive Order 12988

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 Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. Regarding 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 sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this rule meets the relevant standards of Executive Order 12988.

J. Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's rulemaking under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. 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 OMB a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgated or is expected to lead to 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 regulatory action is not a significant regulatory action under Executive Order 12866 or any successor order; would not have a significant adverse effect on the supply, distribution, or use of energy; and has not been designated by the Administrator of OIRA as a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Executive Order 12630

Pursuant to Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," 53 FR 8859 (March 15, 1988), DOE has determined that this rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

M. Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95-91), the Department of Energy must comply with section 32 of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), as amended by the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95-70). (15 U.S.C. 788) Section 32 provides that where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Department of Justice and the Federal Trade Commission concerning the impact of the commercial or industry standards on competition. This final rule to provide for use of the CCMS system, establish an e-mail address for the submission of e-mail compliance statements and certification reports, and update contact information does not require the use of any commercial standards. Therefore, no consultation with either DOJ or FTC is required.

N. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of today's rule before its effective date. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 804(2).

II. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation test procedures, Household appliances.

Issued in Washington, DC, on May 7, 2010.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

■ For the reasons set forth in the preamble, chapter II of title 10, Code of Federal Regulations, part 430 is amended to read 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: U.S.C. 6291–6309; 28 U.S.C. 2461, note.

■ 2. Section 430.62 is amended by revising paragraphs (a)(1), (b)(1), and (c) to read as follows:

§ 430.62 Submission of data.

(a) *Certification.* (1) Except as provided in paragraph (a)(2) of this section, each manufacturer or private labeler before distributing in commerce any basic model of a covered product subject to the applicable energy conservation standard or water conservation standard (in the case of faucets, showerheads, water closets, and urinals) set forth in subpart C of this part shall certify by means of a compliance statement and a certification report that each basic model(s) meets the applicable energy conservation standard or water conservation standard (in the case of faucets, showerheads, water closets, and urinals) as prescribed in section 325 of the Act. The compliance statement, signed by the company official submitting the statement, and the certification report(s) may be sent by certified mail to: U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Alternatively, the statement(s) may be submitted electronically at <http://www.regulations.doe.gov/ccms>.

(b) *Model Modifications.* (1) Any change to a basic model which affects energy consumption or water consumption (in the case of faucets, showerheads, water closets, and urinals) constitutes the addition of a new basic model. If such change reduces consumption, the new model shall be considered in compliance with the standard without any additional testing. If, however, such change increases consumption while still meeting the standard, all information required by paragraph (a)(4) of this section for the new basic model must be submitted, either by certified mail, to: U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121, or electronically to: <http://www.regulations.doe.gov/ccms>.

(c) *Discontinued model.* When production of a basic model has ceased and it is no longer being distributed, this shall be reported, either by certified mail, to: U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121, or electronically to: <http://www.regulations.doe.gov/ccms>. For each basic model, the report shall include: Product type, product class, the manufacturer's name, the private labeler name(s), if applicable, and the

manufacturer's model number. If the reporting of discontinued models coincides with the submittal of a certification report, such information can be included in the certification report.

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[FR Doc. 2010-11584 Filed 5-13-10; 8:45 am]
BILLING CODE 6450-01-P

DEPARTMENT OF COMMERCE**Bureau of Industry and Security****15 CFR Part 748**

[Docket No. 100205081-0149-01]

RIN 0694-AE86

Revisions to the Authorization for Validated End-User Applied Materials China, Ltd.

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In this final rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to update the name of an existing validated end-user in the People's Republic of China (PRC) and revise the associated list of eligible items and facilities for that validated end-user. BIS previously approved Applied Materials China, Ltd. (Applied) as a validated end-user, authorizing exports, reexports and transfers (in-country) of certain items to four Applied facilities in the PRC under Authorization Validated End-User (VEU). In addition to updating Applied's name, this rule revises the names and addresses of Applied's four previously approved facilities. This rule also authorizes three additional Applied facilities, which are added to the list of Applied's eligible destinations. Finally, this rule revises the list of Export Control Classification Numbers (ECCNs) for items that may be exported, reexported or transferred (in-country) to the eligible Applied facilities.

DATES: This rule is effective May 14, 2010. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

ADDRESSES: You may submit comments, identified by RIN 0694-AE86, by any of the following methods:

- *E-mail:* publiccomments@bis.doc.gov. Include "RIN 0694-AE86" in the subject line of the message.
- *Fax:* (202) 482-3355. Please alert the Regulatory Policy Division, by