Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 421, P.O. Box 419205, Kansas City, MO 64141–6205, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Background

The final regulation subject to this amendment revised the Common Crop Insurance Regulations, Macadamia Tree Crop Insurance Provisions. The final regulation was published April 16, 2015 (80 FR 20407–20413).

Need for Amendment

As published, language in the final regulation for Macadamia Tree Crop Insurance Provisions may require clarification to ensure proper application of the policy provisions. Sections 11(b)(3)(ii)(A) and (B) of the Macadamia Tree Crop Insurance Provisions may lack information or explanation needed to properly calculate an indemnity. Section 11(b)(3)(ii)(A) has been clarified to note that the result in this provision must also be multiplied by 100 to clearly represent the percentage of destroyed trees. Section 11(b)(3)(ii)(B) states the loss adjuster must take the number of damaged trees and divide by the total number of trees to calculate the percent of damage. However, the loss adjuster must also determine the percent of damage for each damaged tree within the overall loss calculation formula, when at least some damage (rather than solely complete destruction) is at issue. As a result, a description of specific additional steps is necessary under section 11(b)(3)(ii)(B) to clarify this issue.

In addition, section 11(c)(1) of the Macadamia Tree Crop Insurance Provisions was revised to change the provision from '' . . . over 80 percent actual damage due to an insured cause of loss will be considered to be 100 percent damaged'' to '' . . . over 80 percent of the actual trees damaged or destroyed due to an insured cause of loss will be considered to be 100 percent damaged . . . '' This change may have appeared to require the loss adjuster to determine whether the orchard was damaged more than 80 percent solely by counting the number of trees damaged or destroyed, without calculating the actual damage to individual trees. That application was not FCIC's intent. It is FCIC's intent that actual damage to each individual tree, in addition to the total number and percentage of actual damaged trees, are both used among other factors (such as destroyed trees when applicable) to determine whether the orchard is damaged more than 80 percent.

List of Subjects in 7 CFR Part 457

Crop insurance, Macadamia tree, Reporting and recordkeeping requirements, Amendment of publication.

Accordingly, 7 CFR part 457 is amended by making the following correcting amendments:

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(1) and 1506(o).

■ 2. In § 457.130, under the heading 11. Settlement of Claim, revise paragraphs (b)(3)(ii)(A) and (B) paragraph (c) to read as follows:

§ 457.130 Macadamia tree crop insurance provisions.

* * * * *

11. Settlement of Claim

* * * * *

(b) * * *

(3) * * *

(ii) * * *

(A) For destroyed trees, divide the number of trees destroyed by the total number of trees and multiply by 100 to calculate the percent of loss;

(B) For damaged trees:

(1) Divide the number of trees damaged by the total number of trees (both damaged and undamaged) to calculate the amount of damage;

(2) Divide the number of damaged scaffold limbs by the total number of scaffold limbs on each damaged tree to calculate the amount of damage for each damaged tree;

(3) Total the results in (b)(3)(ii)(B)*(2);*

(4) Divide the result of (b)(3)(ii)(B)*(3)* by the number of damaged trees;

(5) Multiply the result of (b)(3)(ii)(B)*(1)* by the result of (b)(3)(ii)(B)*(4),* then multiply that result by 100 to calculate the percent of loss; and

* * * * *

(c) * * *

(1) Any orchard with damage, destruction, or combined damage and destruction, that results in a total percent of loss greater than 80 percent due to an insured cause of loss will be considered to be 100 percent damaged and/or destroyed; and

* * * * *

Signed in Washington, DC, on July 31, 2015.

Brandon Willis,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 2015–19465 Filed 8–10–15; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket Number EERE–2015–BT–STD–0017]

RIN 1904–AD55

Energy Conservation Program for Consumer Products: Definitions and Standards for Grid-Enabled Water Heaters

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

ACTION: Final rule.

SUMMARY: Congress created a new definition and energy conservation standard for grid-enabled water heaters in the Energy Efficiency Improvement Act of 2015, which amended the Energy Policy and Conservation Act of 1975 (EPCA). The Department of Energy (DOE) is publishing this final rule to place in the Code of Federal Regulations (CFR) the energy conservation standards, and related definitions, and to explain its interpretation of the new language. This final rule will implement these amendments to EPCA.

DATES: *Effective Date:* August 11, 2015.

FOR FURTHER INFORMATION CONTACT:

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I. Introduction

The following section briefly discusses the statutory authority DOE is interpreting in this rule, as well as some of the relevant historical background related to the establishment of standards for residential water heaters.

A. Authority

Part B of Title III of the Energy Policy and Conservation Act [1] (42 U.S.C. 6291 *et seq.; hereinafter ''EPCA''*), establishes the ''Energy Conservation Program for Consumer Products Other Than Automobiles,'' under which the Department of Energy (and in some cases the statute) sets energy conservation standards for a variety of products called ''covered products.'' [2] Covered products generally include water heaters. (42 U.S.C. 6292(a)(4)) [3] EPCA authorizes the Department of Energy (''Department'' or ''DOE'') to implement EPCA by ''prescrib[ing] amended or new energy conservation standards'' for covered products, establishing test protocols for measuring products' performance *vis à vis* conservation standards, setting labeling requirements, etc. (42 U.S.C. 6293, 6294, 6295, 6296) The Department is authorized to ''issue such rules as [it] deems necessary to carry out the provisions'' of EPCA. (42 U.S.C. 6298)

The Energy Efficiency Improvement Act of 2015 (EEIA 2015) (Pub. L. 114–11–210) was enacted on April 30, 2015. Among other things, Title II of EEIA 2015 adds the definition of ''grid-enabled water heaters'' to EPCA's energy conservation standards for residential water heaters. These products are intended for use as part of an electric thermal storage or demand response program. Among the criteria that define ''grid-enabled water heaters'' is an energy-related performance standard that is either an energy factor specified by a formula set forth in the statute, or an equivalent alternative standard that DOE may prescribe. In addition, EEIA's amendments to EPCA direct DOE to require reporting on shipments and activations of grid-enabled water heaters and to establish procedures, if appropriate, to prevent product diversion for non-program purposes.

B. Background

EPCA prescribed energy conservation standards for residential water heaters and directed DOE to conduct rulemakings to determine whether to amend these standards. Pursuant to 42 U.S.C. 6295(m), DOE must also periodically review its already established energy conservation standards for a covered product. Under this requirement, DOE would need to undertake its periodic review no later than six years from the issuance of a final rule establishing or amending a standard for a covered product.

On April 16, 2010, DOE published a final rule in the **Federal Register** amending the energy conservation standards for residential water heaters for a second time (hereinafter ''April 2010 final rule''). 75 FR 20111. The updated standards maintained the existing product structure, dividing water heaters based on the type of energy used (*i.e.,* gas, oil, or electricity) and whether the water heater is a storage, instantaneous, or tabletop model, but also differentiated standard levels for electric and gas-fired storage water heaters based on whether the rated storage volume is greater than 55 gallons, or less than or equal to 55 gallons. Compliance with the energy conservation standards contained in the April 2010 final rule was required starting on April 16, 2015.

Table I.11 presents the Federal energy conservation standards for residential water heaters, amended in the April 2010 final rule, which are set forth in 10 CFR 430.32(d).

TABLE I.1—AMENDED FEDERAL ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL WATER HEATERS ESTABLISHED BY APRIL 2010 FINAL RULE

Product description	Energy factor as of April 16, 2015
Gas-fired Water Heater	For tanks with a Rated Storage Volume at or below 55 gallons: EF = 0.675 − (0.0015 × Rated Storage Volume in gallons).
	For tanks with a Rated Storage Volume above 55 gallons: EF = 0.8012 − (0.00078 × Rated Storage Volume in gallons).
Oil-fired Water Heater	EF = 0.68 − (0.0019 × Rated Storage Volume in gallons).
Electric Water Heater	For tanks with a Rated Storage Volume at or below 55 gallons: EF = 0.960 − (0.0003 × Rated Storage Volume in gallons).
	For tanks with a Rated Storage Volume above 55 gallons: EF = 2.057 − (0.00113 × Rated Storage Volume in gallons).
Tabletop Water Heater	EF = 0.93 − (0.00132 × Rated Storage Volume in gallons).
Instantaneous Gas-Fired Water Heater	EF = 0.82 − (0.0019 × Rated Storage Volume in gallons).
Instantaneous Electric Water Heater	EF = 0.93 − (0.00132 × Rated Storage Volume in gallons).

After DOE issued the April 2010 final rule, several stakeholders expressed concern about April 2010 final rule's effect on electric thermal storage (ETS) programs. Utilities use ETS programs, sometimes also known as load shifting or demand response programs, to manage peak demand load by limiting the times when certain appliances are

[1] All references to EPCA in this document refer to the statute as amended through the Energy Efficiency Improvement Act of 2015, Public Law 112–210 (Apr. 30, 2015).

[2] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

[3] The statute excludes ''those consumer products designed solely for use in recreational vehicles and other mobile equipment.'' 42 U.S.C. 6292(a).

operated. In certain water-heater based ETS programs, a utility typically controls a water heater remotely to allow operation only when electricity demand is during off-peak hours. During that off-peak operation, the electricity consumed is stored by the water heater as thermal energy for use during peak hours when the utility prevents the water heater from using electricity.

Stakeholders told the Department that large-volume water heaters are important for water heater-based ETS programs because a larger-volume product permits the storage of enough hot water to satisfy a consumer's needs through the peak hours. Utility companies also asserted that ETS programs are feasible only with electric resistance water heaters, as opposed to heat pump water heaters. In light of these two conditions, stakeholders said, the April 2010 final rule could impair water heater-based ETS programs because the rule effectively precludes the manufacture of large-volume electric resistance heaters. The minimum energy factor that the Department set for electric water heaters above 55 gallons is higher than electric resistance heaters can meet.

In February 2013, DOE proposed a rule that would have established a mechanism for utilities and water heater manufacturers to request exemptions from the new standards for large-volume electric water heaters. The Department then commissioned studies of the performance of electric heaters with heat pumps (a technology capable of satisfying the new standard) in ETS programs. After receiving reports that concluded heat pumps are technically feasible in existing ETS programs, the Department withdrew its proposed rule on April 3, 2015.

C. New Legislation

Congress enacted EEIA 2015 to address the use of large capacity electric resistance water heaters in thermal storage and demand response systems operated by electric utilities. Specifically, EEIA 2015 amended EPCA to establish a category of water heater called ''grid enabled water heaters.'' As detailed below, a ''grid enabled water heater'' is defined as an electric resistance water heater made after April 16, 2015, with a tank over 75 gallons, an activation lock installed at manufacture, and a label. The water heater must also satisfy an energy-efficiency criterion—either an ''energy factor'' determined by a certain formula or ''an equivalent alternative standard prescribed by the Secretary and developed pursuant to'' 42 U.S.C. 6295(e)(5)(E). A manufacturer can provide the activation key for a grid-enabled heater only to a utility using it in a thermal storage or demand response program. In addition, DOE is to require manufacturers to report data on their sales of grid-enabled heaters, and the Department can in appropriate circumstances establish procedures to prevent product diversion for non-program purposes. These provisions regarding grid-enabled water heaters will remain in effect unless and until DOE determines that they do not require a separate efficiency requirement or that efforts to prevent diversion of the water heaters are ineffective. Finally, in making standards in general for electric water heaters, DOE must consider the impact on thermal storage and demand response programs.

While not explicit on the face of the statute, DOE interprets EEIA 2015 as having established a category of water heaters subject to their own energy conservation standard. It is apparent that Congress intended to ensure the continued availability of certain large capacity electric resistance water heaters for use in utility operated thermal storage and demand response programs. To do so, Congress defined a separate grouping of water heaters for this use and stated the energy conservation standard that would be applicable to water heaters in this group. Congress also made clear that DOE is to monitor that such water heaters are used only for the purpose stated and that DOE could take steps to address diversion to other uses of water heaters within this category, including a determination that separate energy conservation standards are no longer necessary.

In that Congress clearly intended to ensure continued availability of certain large capacity water heaters for use in ETS and demand response programs, DOE notes that its interpretation of EEIA 2015 is consistent with the intended outcome of its earlier rulemaking. DOE's existing standards, which took effect on April 16, 2015, would require a residential electric resistance water heater with a capacity over 55 gallons to have an energy factor that is currently achievable for an electric heater only by using heat pump technology, and not solely by use of electric resistance elements. Stakeholders had told DOE they considered large-capacity electric resistance heaters important for ETS programs and urged DOE to amend the standard to permit continued manufacture of the heaters for that purpose. As such, Congress enacted EEIA 2015 to remedy this issue through establishing a separate grouping of water heaters, ensuring that grid-enabled water heaters would be used only for ETS programs.

Table I.2 presents the below presents the new standards Congress laid out in EEIA 2015 for grid-enabled water heaters.

TABLE I.2—AMENDED FEDERAL ENERGY CONSERVATION STANDARDS FOR GRID-ENABLED WATER HEATERS ESTABLISHED BY EEIA 2015

Product description	Energy factor as of April 30, 2015
Grid-Enabled Water Heaters	For tanks with a Rated Storage Volume above 75 gallons: EF = 1.061 − (0.00168 × Rated Storage Volume in gallons).

II. Summary of Final Rule

DOE is placing the new energy conservation standards and related definitions for grid-enabled water heaters into 10 CFR part 430 (''Energy Conservation Program for Consumer Products''). This final rule codifies EEIA 2015, which established the energy conservation standards for grid-enabled water heaters on April 30, 2015 to permit the continued manufacture of grid-enabled water heaters after that date, provided the water heaters meet the criteria established in the amendment. DOE is also explaining its interpretation of some of the new language in EPCA regarding grid-enabled water heaters. DOE reads the new provisions as establishing a category of water heaters called ''grid-enabled water heaters'' and setting an energy conservation standard for those products. DOE notes that continued manufacture of grid-enabled water heaters has been legal under EPCA since April 30, 2015, and that this notice simply places that language into DOE's codified regulations. This notice also provides a summary of the amendments

EEIA 2015 made to EPCA, with respect to grid-enabled water heaters.

A. Standards for Grid-Enabled Water Heaters

The EEIA 2015 amendments to EPCA became effective on April 30, 2015. The new provisions constitute the new 42 U.S.C. 6295(e)(6), appended to the subsection that details the standards program for residential water heaters. As amended, EPCA defines a ''grid-enabled water heater'' as an electric resistance water heater that:

(I) Has a rated storage tank volume of more than 75 gallons;

(II) is manufactured on or after April 16, 2015;

(III) has an energy factor of not less than 1.061 minus the product of 0.00168 times the tank's rated storage volume (in gallons); or an equivalent alternative standard prescribed by the Secretary and developed pursuant to paragraph (5)(E);

(IV) is equipped at the point of manufacture with an activation lock; and

(V) has a label meeting certain criteria for permanence and states, using text set by the statute, that the water heater is intended only for use as part of an electric thermal storage or demand response program.

DOE at this time declines to develop such an equivalent standard through a lengthy notice and comment rulemaking process, and is therefore codifying the standard established in § 6295(e)(6)(A)(ii)(III)(aa) as an energy factor of not less than 1.061 minus the product of 0.00168 times the tank's rated storage volume (in gallons).

EPCA, as amended, also defines an ''activation lock'' as a control mechanism that is locked by default and must be activated with an activation key to enable the product to operate at its designed specifications and capabilities. A manufacturer can provide the activation key for the activation lock on a grid-enabled heater only to a utility or other company that operates an electric thermal storage or demand response program that uses such grid-enabled water heater.

EPCA also mandates the Department to require each grid-enabled water heater manufacturer to report annually the quantity of grid-enabled water heaters shipped each year. Likewise, operators of demand response and/or thermal storage systems must report the quantity of grid-enabled water heaters that are activated, using Energy Information Agency (EIA) forms, or another mechanism that DOE creates through a notice-and-comment rulemaking. At this time, DOE declines to develop another mechanism through a notice-and-comment rulemaking. DOE must treat all information received under these provisions as confidential business information.

The EEIA 2015 instructs the Department to publish in 2017 and 2019 analyses of the manufacturer and operator data to assess the extent to which shipped products are put into use in demand response and thermal storage programs. If DOE finds that sales of the products exceed by 15 percent or greater the numbers activated annually, it can establish procedures to prevent product diversion for non-program purposes.

Pursuant to EEIA 2015, the preceding provisions remain in effect until the Secretary determines that grid-enabled water heaters do not require a separate efficiency requirement or that sales exceed activations by more than 15 percent and procedures to prevent product diversion for non-program purposes would not be adequate. The statute also states that in carrying out this section with respect to electric water heaters, DOE must consider the impact on thermal storage and demand response programs. DOE is to require that grid-enabled water heaters be equipped with communication capability to participate in ancillary services programs if such technology is available, practical, and cost-effective.

B. Enforcement Provisions for Grid-Enabled Water Heaters

EEIA 2015 also amended EPCA's list of prohibited acts in 42 U.S.C. 6302(a) to include additional authority for DOE to enforce standards for grid-enabled water heaters so they are used exclusively in ETS programs. Under EPCA, certain actions, including activating an activation lock, distributing an activation key, or otherwise enabling a grid-enabled water heater to operate, with the knowledge that the grid-enabled water heater will not be used as part of an electric thermal storage or demand response program. In addition, removing a grid-enabled water heater label, or rendering it unintelligible, is also prohibited.

III. Procedural Issues and Regulatory Review

A. Review Under the Administrative Procedure Act

This final rule provides DOE's interpretation of EEIA 2015, and is not subject to the requirement to provide prior notice and an opportunity for public comment pursuant to authority at 5 U.S.C. 553(b)(A). To the extent that this final rule codifies, verbatim, EEIA 2015, DOE finds good cause to waive the requirement to provide prior notice and an opportunity for public comment as such procedure is unnecessary in that DOE has no authority to amend the statute.

B. Review Under Executive Orders 12866 and 13563

This final rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, ''Regulatory Planning and Review.'' 58 FR 51735 (Oct. 4, 1993). Accordingly, DOE is not required under section 6(a)(3) of the Executive Order to prepare a regulatory impact analysis (RIA) on today's rule and the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) is not required to review this rule.

DOE has also reviewed this regulation pursuant to Executive Order 13563. 76 FR 3281 (Jan. 21, 2011). Executive Order 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required by Executive Order 13563 to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that Executive Order 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated

behavioral changes. For the reasons stated in the preamble, DOE believes that this final rule is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a 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 (*http://energy.gov/gc/office-general-counsel*). DOE is revising the Code of Federal Regulations to incorporate, without substantive change, energy conservation standards prescribed by Congress in the Energy Efficiency Improvement Act of 2015. Because this is a technical amendment for which a general notice of proposed rulemaking is not required, the analytical requirements of the Regulatory Flexibility Act do not apply to this rulemaking.

D. Review Under the Paperwork Reduction Act

Manufacturers of residential water heaters, including grid-enabled water heaters, must certify to DOE that their products comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for residential water heaters, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including residential water heaters. 76 FR 12422 (March 7, 2011). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 30 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.

The Energy Efficiency Improvement Act of 2015 also requires manufacturers of grid-enabled water heaters to report to DOE annually the quantity of grid-enabled water heaters that the manufacturer ships each year. It also requires operators of demand response and/or thermal storage systems to report annually the quantity of grid-enabled water heaters activated for their programs.

E. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act (NEPA) of 1969, DOE has determined that the rule fits within the category of actions included in Categorical Exclusion (CX) B5.1 and otherwise meets the requirements for application of a CX. See 10 CFR part 1021, App. B, B5.1(b); 1021.410(b) and Appendix B, B(1)–(5). The rule fits within the category of actions because it is a rulemaking that clarifies the applicability of energy conservation standards for consumer products, and for which none of the exceptions identified in CX B5.1(b) apply. Therefore, DOE has made a CX determination for this rulemaking, and DOE does not need to prepare an Environmental Assessment or Environmental Impact Statement for this rule. DOE's CX determination for this proposed rule is available at *http://cxnepa.energy.gov/.*

F. Review Under Executive Order 13132

Executive Order 13132, ''Federalism.'' 64 FR 43255 (Aug. 10, 1999) imposes certain requirements on Federal 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. The Executive Order also requires agencies to 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. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of today's final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) No further action is required by Executive Order 13132.

G. Review Under 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,'' 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; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). 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 has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

H. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section

202 of UMRA requires a Federal agency to publish a written statement that estimates 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,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *http://energy.gov/gc/office-general-counsel*.

This final rule does not contain a Federal intergovernmental mandate, and will not require expenditures of $100 million or more on the private sector. Accordingly, no further action is required under the UMRA.

I. Review Under the 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. This 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 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (Mar. 18, 1988), that this regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

K. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal 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 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

L. 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 OIRA at 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 promulgates 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 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. This final rule would not have a significant adverse effect on the supply, distribution, or use of energy and, therefore, is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

M. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (Jan. 14, 2005). The Bulletin 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,'' which the Bulletin defines 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.

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. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. The ''Energy Conservation Standards Rulemaking Peer Review Report'' dated February 2007 has been disseminated and is available at the following Web site: *www1.eere.energy.gov/buildings/appliance_standards/peer_review.html*.

IV. 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, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on August 4, 2015.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE amends part 430 of chapter II, of title 10 of the Code of Federal Regulations, 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: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Section 430.2 is amended by adding the definitions of ''activation lock'' and ''grid-enabled water heater'' in alphabetical order to read as follows:

§ 430.2 Definitions.

* * * * *

Activation lock means a control mechanism (either by a physical device directly on the water heater or a control

system integrated into the water heater) that is locked by default and contains a physical, software, or digital communication that must be activated with an activation key to enable to the product to operate at its designed specifications and capabilities and without which the activation of the product will provide not greater than 50 percent of the rated first hour delivery of hot water certified by the manufacturer.

* * * * *

Grid-enabled water heater means an electric resistance water heater that—

(1) Has a rated storage tank volume of more than 75 gallons;

(2) Is manufactured on or after April 16, 2015;

(3) Is equipped at the point of manufacture with an activation lock and;

(4) Bears a permanent label applied by the manufacturer that—

(i) Is made of material not adversely affected by water;

(ii) Is attached by means of non-water-soluble adhesive; and

(iii) Advises purchasers and end-users of the intended and appropriate use of the product with the following notice printed in 16.5 point Arial Narrow Bold font: ''IMPORTANT INFORMATION: This water heater is intended only for use as part of an electric thermal storage or demand response program. It will not provide adequate hot water unless enrolled in such a program and activated by your utility company or another program operator. Confirm the availability of a program in your local area before purchasing or installing this product.''

* * * * *

■ 3. Section 430.32 is amended by revising paragraph (d) to read as follows:

§ 430.32 Energy and water conservation standards and their compliance dates.

* * * * *

(d) *Water heaters and grid-enabled water heaters*—(1) *Water heaters.* The energy factor of water heaters shall not be less than the following for products manufactured on or after the indicated dates.

Product class	Storage volume	Energy factor as of January 20, 2004	Energy factor as of April 16, 2015
Gas-fired Storage Water Heater.	≥20 gallons and ≤100 gallons.	0.67 − (0.0019 × Rated Storage Volume in gallons).	For tanks with a Rated Storage Volume at or below 55 gallons: EF = 0.675 − (0.0015 × Rated Storage Volume in gallons). For tanks with a Rated Storage Volume above 55 gallons: EF = 0.8012 − (0.00078 × Rated Storage Volume in gallons).
Oil-fired Storage Water Heater.	≤50 gallons	0.59 − (0.0019 × Rated Storage Volume in gallons).	EF = 0.68 − (0.0019 × Rated Storage Volume in gallons).
Electric Storage Water Heater.	≥20 gallons and ≤120 gallons.	0.97 − (0.00132 × Rated Storage Volume in gallons).	For tanks with a Rated Storage Volume at or below 55 gallons: EF = 0.960 − (0.0003 × Rated Storage Volume in gallons). For tanks with a Rated Storage Volume above 55 gallons: EF = 2.057 − (0.00113 × Rated Storage Volume in gallons).
Tabletop Water Heater	≥20 gallons and ≤120 gallons.	0.93 − (0.00132 × Rated Storage Volume in gallons).	EF = 0.93 − (0.00132 × Rated Storage Volume in gallons).
Instantaneous Gas-fired Water Heater.	<2 gallons	0.62 − (0.0019 × Rated Storage Volume in gallons).	EF = 0.82 − (0.0019 × Rated Storage Volume in gallons).
Instantaneous Electric Water Heater.	<2 gallons	0.93 − (0.00132 × Rated Storage Volume in gallons).	EF = 0.93 − (0.00132 × Rated Storage Volume in gallons).

Note: The Rated Storage Volume equals the water storage capacity of a water heater, in gallons, as certified by the manufacturer.

Exclusions: The energy conservation standards shown in this paragraph do not apply to the following types of water heaters: Gas-fired, oil-fired, and electric water heaters at or above 2 gallons storage volume and below 20 gallons storage volume; gas-fired water heaters above 100 gallons storage volume; oil-fired water heaters above 50 gallons storage volume; electric water heaters above 120 gallons storage volume; gas-fired instantaneous water heaters at or below 50,000 Btu/h; and grid-enabled water heaters.

(2) *Grid-enabled water heaters.* The energy factor of grid-enabled water heaters, as of April 30, 2015, shall not be less than 1.06 − (0.00168 × Rated Storage Volume in gallons).

* * * * *

[FR Doc. 2015–19643 Filed 8–10–15; 8:45 am]

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 702

RIN 3133–AE44

Capital Planning and Stress Testing—Schedule Shift

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is issuing amendments to the regulation governing credit union capital planning and stress testing. The amendments adjust the timing of certain events in the capital planning and stress testing cycles. The revisions to the regulation become effective January 1, 2016.

DATES: The final rule is effective January 1, 2016.

FOR FURTHER INFORMATION CONTACT: Marvin Shaw, Staff Attorney, Office of General Counsel, 1775 Duke Street, Alexandria, VA 22314 or telephone (703) 518–6553; or Jeremy Taylor or Dale Klein, Senior Capital Markets Specialists, Office of National Examinations and Supervision, at the above address or telephone (703) 518–6640.

SUPPLEMENTARY INFORMATION:

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I. Background
II. Proposed Amendments
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I. Background

In April 2014, the Board issued a final rule requiring capital planning and stress testing for federally insured credit unions (FICUs) with assets of $10