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*Campaign form letters.* Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

*Confidential Business Information.* Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

#### *E. Issues on Which DOE Seeks Comment*

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

(1) DOE seeks comment on the technology options identified and the ones selected as design options in the screening analysis. See sections IV.B.2 and IV.B.3 of this document.

(2) DOE seeks comment on the performance characteristics of the more efficacious substitutes. See section IV.C of this document.

(3) DOE welcomes any relevant data and comment on the energy use analysis methodology. See section IV.D of this document.

(4) DOE welcomes any relevant data and comment on the shipments analysis methodology. See section IV.F of this document.

#### **VIII. Approval of the Office of the Secretary**

The Secretary of Energy has approved publication of this notification of

proposed determination and request for comment.

#### **Signing Authority**

This document of the Department of Energy was signed on May 23, 2022, by Kelly J. Speakes-Backman, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 24, 2022.

**Treana V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

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## **DEPARTMENT OF ENERGY**

### **10 CFR Part 430**

**[EERE-2019-BT-TP-0021]**

**RIN 1904-AE75**

#### **Energy Conservation Program: Test Procedures for Faucets and Showerheads**

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

**ACTION:** Notice of proposed rulemaking and announcement of public meeting.

**SUMMARY:** The U.S. Department of Energy ("DOE") proposes to amend the test procedures for faucets and showerheads to incorporate the current version of the referenced industry standard, American Society of Mechanical Engineers Standard A112.18.1-2018, "Plumbing Fixture Fittings." DOE also proposes to add definitions for low-pressure water dispensers and pot fillers, and exclude them from the faucet definition. Finally, DOE proposes to provide further detail for conducting the flow rate measurement. DOE is seeking comment from interested parties on the proposal.

#### **DATES:**

*Meeting:* DOE will hold a webinar on Wednesday, June 22, 2022, from 1:00

p.m. to 4:00 p.m. See section V, "Public Participation," for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

*Comments:* DOE will accept comments, data, and information regarding this proposal no later than August 1, 2022. See section V, "Public Participation," for details.

**ADDRESSES:** Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE-2019-BT-TP-0021, by any of the following methods:

1. *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the instructions for submitting comments.

2. *Email:* to [FaucetShowerhead2019TP0021](mailto:FaucetShowerhead2019TP0021). Include docket number EERE-2019-BT-TP-0021 in the subject line of the message.

3. *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 287-1445. If possible, please submit all items on a compact disc ("CD"), in which case it is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, Suite 600, Washington, DC 20024. Telephone: (202) 287-1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles ("faxes") will be accepted. For detailed instructions on submitting comments and additional information on this process, see section V of this document.

*Docket:* The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if a public meeting is held), comments, and other supporting documents/materials, is available for review at [www.regulations.gov](http://www.regulations.gov). All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at [www.regulations.gov/docket/EERE-2019-BT-TP-0021](http://www.regulations.gov/docket/EERE-2019-BT-TP-0021). The docket web page contains instructions on how to access all documents, including public

comments, in the docket. See section V for information on how to submit comments through [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:**

Mr. Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE-5B, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-0371. Email [ApplianceStandardsQuestions@ee.doe.gov](mailto:ApplianceStandardsQuestions@ee.doe.gov).

Ms. Amelia Whiting, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-2588. Email: [Amelia.Whiting@hq.doe.gov](mailto:Amelia.Whiting@hq.doe.gov).

For further information on how to submit a comment, review other public comments and the docket, or participate in a public meeting (if one is held), contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: [ApplianceStandardsQuestions@ee.doe.gov](mailto:ApplianceStandardsQuestions@ee.doe.gov).

**SUPPLEMENTARY INFORMATION:** DOE proposes to incorporate by reference the following industry standard into 10 CFR part 430:

American Society of Mechanical Engineers (“ASME”) A112.18.1/Canadian Standards Association (“CSA”) B125.1-2018 (with 10/18 Errata), “Plumbing Supply Fittings,” approved 2018 (“ASME A112.18.1-2018”).

Copies of ASME A112.18.1-2018 can be obtained from American Society of Mechanical Engineers at Two Park Avenue, New York, NY 10016-5990, or by going to [www.asme.org](http://www.asme.org).

For a further discussion of this standard, see section IV.M of this document.

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**I. Authority and Background**

Faucets and showerheads are included in the list of “covered products” for which DOE is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6292(a)(15) and (16)) DOE’s test procedures for faucets and showerheads are currently prescribed at title 10 of the Code of Federal Regulations (“CFR”), § 430.23 (s) and (t), respectively, and 10 CFR part 430 subpart B, appendix S (“appendix S”). DOE regulations codify the statutory standards for faucets and showerheads. 10 CFR 430.32(o) and (p). The following sections discuss DOE’s authority to establish test procedures for faucets and showerheads and relevant background information regarding DOE’s consideration of test procedures for these products.

**A. Authority**

The Energy Policy and Conservation Act, as amended (“EPCA”),<sup>1</sup> authorizes DOE to regulate the energy and water efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291-6317) Title III, Part B<sup>2</sup> of EPCA established the

<sup>1</sup> All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116-260 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A-1 of EPCA.

<sup>2</sup> For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy or water efficiency. These products include faucets and showerheads, the subject of this document. (42 U.S.C. 6292(a)(15) and (16))

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

The Federal testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) Certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making other representations about the efficiency of those consumer products (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the products comply with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Federal energy efficiency requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions of EPCA. (42 U.S.C. 6297(d))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA requires that any test procedures prescribed or amended under this section be reasonably designed to produce test results which measure energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

EPCA directs that the test procedures for faucets and showerheads are to be the test procedures specified in American Society of Mechanical Engineers (“ASME”) Standard A112.18.1M-1989, “Plumbing Fixture

Fittings.” (42 U.S.C. 6293(b)(7)(A)) EPCA further directs that, if the test procedure requirements of ASME A112.18.1M–1989 are revised at any time and approved by the American National Standards Institute (“ANSI”), DOE must amend the Federal test procedures to conform to the revised ASME standard, unless DOE determines by rule that to do so would not meet the requirements of EPCA that the test procedures be reasonably designed to produce test results which measure water use during a representative average use cycle as determined by DOE, and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(7)(B); 42 U.S.C. 6293(b)(3))

EPCA also requires that, at least once every 7 years, DOE evaluate test procedures for each type of covered product, including faucets and showerheads, to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle or period of use. (42 U.S.C. 6293(b)(1)(A))

If the Secretary determines, on her own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, the Secretary shall promptly publish in the **Federal Register** proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such procedures. The comment period on a proposed rule to amend a test procedure shall be at least 60 days and may not exceed 270 days. In prescribing or amending a test procedure, the Secretary shall take into account such information as the Secretary determines relevant to such procedure, including technological developments relating to energy use or energy efficiency of the type (or class) of covered products involved. (42 U.S.C. 6293(b)(2)) If DOE determines that test procedure revisions are not appropriate, DOE must publish its determination not to amend the test procedures. (42 U.S.C. 6293(b)(1)(A)(ii)) DOE is publishing this NOPR in satisfaction of its statutory obligations. (42 U.S.C. 6293(b)(1)(A) and (7)(B))

**B. Background**

DOE’s existing test procedures for faucets and showerheads appear at 10 CFR part 430, subpart B, appendix S.

DOE last amended the test procedures for faucets and showerheads on October 23, 2013 (“October 2013 Final Rule”). 78 FR 62970. In that final rule, DOE adopted through reference certain provisions of the 2012 version of ASME A112.18.1 as part of the test procedures for faucets and showerheads. 78 FR 62970, 62982. Since then, the 2012 version of the ASME standard was reaffirmed in 2017, and then updated in 2018 to ASME A112.18.1–2018, which is the current version of the industry standard.

On September 2, 2021, DOE initiated an early assessment review of the showerhead and faucet test procedure through the publication of a request for information (“RFI”). 86 FR 49261 (“September 2021 RFI”). DOE solicited public comments, data, and information on all aspects of, and any issues or problems with, the existing DOE test procedure, including whether the test procedure needs updates or revisions. On September 24, 2021, in response to a stakeholder request,<sup>3</sup> DOE extended the comment period for an additional 15 days. 86 FR 53013 (Sept. 24, 2021).

DOE received comments in response to the September 2021 RFI from the interested parties listed in Table I.I.

TABLE I.I—LIST OF COMMENTERS WITH WRITTEN SUBMISSIONS IN RESPONSE TO THE SEPTEMBER 2021 RFI

Commenter(s)	Reference in this NOPR	Commenter type
American Supply Association	ASA	Trade Organization.
Appliance Standards Awareness Project, Natural Resources Defense Council, Northwest Energy Efficiency Alliance.	Efficiency Advocates	Efficiency Organization.
Pacific Gas and Electric Company, Southern California Edison, San Diego Gas & Electric Company; collectively, the California Investor-Owned Utilities.	CA IOUs	Utilities.
Plumbing Manufacturers International	PMI	Trade Organization.
Ziesenheim	Ziesenheim	Individual.

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.<sup>4</sup>

**C. Deviation From Appendix A**

In accordance with section 3(a) of 10 CFR part 430, subpart C, appendix A (“Appendix A”), DOE notes that it is deviating from the provision in appendix A regarding the pre-NOPR stages for a test procedure rulemaking. Section 8(b) of appendix A states that if DOE determines that it is appropriate to continue the test procedure rulemaking after the early assessment process, it will provide further opportunities for

early public input through **Federal Register** documents, including notices of data availability and/or RFIs. DOE is opting to deviate from this provision by publishing a NOPR following the early assessment review RFI because, as discussed previously, DOE requested comment on a number of specific topics in the September 2021 RFI, and comments received in response to the September 2021 RFI informed the proposals included in this NOPR.

**II. Synopsis of the Notice of Proposed Rulemaking**

In this NOPR, DOE proposes to:

- (1) Include definitions for low-pressure water dispensers and pot fillers;
- (2) Update the faucet definition by explicitly excluding low-pressure water dispensers and pot fillers;
- (3) Incorporate by reference the latest revision to the applicable industry standard—ASME A112.18.1–2018, “Plumbing Supply Fittings” as it pertains to flow rate measurement; and
- (4) Add further direction for conducting the flow rate measurement.

DOE’s proposed actions are summarized in Table II.1 compared to the current test procedure as well as the reason for the proposed change.

<sup>3</sup> Comment EERE–2019–BT–TP–0021–0002 available at: [www.regulations.gov/comment/EERE-2019-BT-TP-0021-0002](http://www.regulations.gov/comment/EERE-2019-BT-TP-0021-0002).

<sup>4</sup> The parenthetical reference provides a reference for information located in the docket of DOE’s rulemaking to develop test procedures for faucets and showerheads. (Docket No. EERE–2019–BT–TP–

0021, which is maintained at [www.regulations.gov](http://www.regulations.gov)). The references are arranged as follows: (commenter name, comment docket ID number, page of that document).

TABLE II.1—SUMMARY OF CHANGES IN PROPOSED TEST PROCEDURE RELATIVE TO CURRENT TEST PROCEDURE

Current DOE test procedure	Proposed test procedure	Attribution
Does not define low-pressure water dispensers or pot fillers.	Defines the terms low-pressure water dispensers and pot fillers.	Clarifies scope of coverage.
Does not explicitly exclude low-pressure water dispensers or pot fillers from the faucet definition.	Explicitly excludes low-pressure water dispensers and pot fillers from the faucet definition.	Clarifies scope of coverage.
Incorporates the 2012 version of ASME A112.18.1 for measurement of flow rate.	Incorporates the 2018 version of ASME Standard A112.18.1.	Harmonize with updated industry standard.
Aside from referencing ASME A112.18.1, includes limited guidance as to how to conduct the flow measurement test procedure.	Adds additional guidance, in accordance with current industry practices, to ensure appropriate equipment is being used and to ensure repeatability of the industry standards in both the fluid meter and time/volume flow rate test methods.	Response to stakeholder comment; improve repeatability of test results.

DOE has tentatively determined that the proposed amendments described in section III of this NOPR would not alter the measured flow rate of faucets and showerheads, or require retesting or recertification solely as a result of DOE's adoption of the proposed amendments to the test procedures, if made final. DOE has tentatively determined that the proposed amendments to the test procedure are reasonably designed to produce test results which measure energy efficiency, energy use, water use, or estimated annual operating costs during a representative average use cycle, as required by EPCA. Additionally, DOE has tentatively determined that the proposed amendments, if made final, would not increase the cost of testing. Discussion of DOE's proposed actions are addressed in detail in section III of this NOPR.

### III. Discussion

In the following sections, DOE proposes certain amendments to its test procedures for faucets and showerheads. For each proposed amendment, DOE provides relevant background information, explains why the amendment merits consideration, discusses relevant public comments, and proposes a potential approach.

#### A. Scope of Applicability

This proposed rulemaking applies to faucets and showerheads, which are discussed in the following sections.

##### 1. Faucets

EPCA and DOE define "faucet" as a lavatory faucet, kitchen faucet, metering faucet, or replacement aerator for a lavatory or kitchen faucet. (42 U.S.C. 6291(31)(E); 10 CFR 430.2). In the September 2021 RFI, DOE stated that it had identified products characterized in the market as "low-pressure water dispensers" and "pot fillers," which appear to be within the scope of the statutory term "faucet." 86 FR 49261, 49263. DOE stated that it did not consider low-pressure water dispensers

or pot fillers when establishing the current test procedure and standards for faucets. 86 FR 49261, 49264. Further, the purpose of these products is typically to fill a vessel and as such, the water usage associated with these products is directly related to the size of the vessel and is independent of the flow rate of these products. *Id.* at 86 FR 49263. As such, application of a maximum flow rate<sup>5</sup> to these products would not save any water and could diminish the usefulness of such products by taking longer to fill a given vessel. *Id.* Therefore, DOE stated that although low-pressure water dispensers appear to meet the DOE definition of a faucet, there is currently no applicable DOE test procedure for testing low-pressure water dispensers or pot fillers because the DOE test procedure requires testing faucets at 60 psi whereas low-pressure water dispensers operate at 15 psi. *Id.*

DOE received comments regarding low-pressure water dispensers and pot fillers.

ASA explained that it agrees with DOE's understanding of the differences between "low-pressure water dispensers" and "pot fillers" compared to conventional kitchen faucets. These products are specifically intended and marketed by manufacturers for filling operations only and not for tasks associated with conventional kitchen faucets. (ASA, No. 6 at p.1) ASA asserted that nothing would be gained by regulating low-pressure water dispensers or pot fillers since the primary purpose is filling vessels, which is independent of flow rate. ASA stated that regulating such devices would have an undesirable effect of extending filling time for pot fillers. (ASA, No. 6 at p. 2)

The Efficiency Advocates similarly commented that application of flow rate

<sup>5</sup> The DOE water conservation standard for faucets specifies that water use must be "measured at a flowing water pressure of 60 pounds per square inch [(psi)]." 10 CFR 430.32(o).

standards to low-pressure water dispensers and pot fillers would not yield water savings, since the volume of water used by such products would be determined by the volume of the vessel being filled. The Efficiency Advocates did not recommend establishing test procedures for low-pressure water dispensers and pot fillers. (Efficiency Advocates, No. 8 at p. 1) The Efficiency Advocates commented, however, that it is possible that pot fillers could be marketed for installation over a sink as a high-flow alternative to a covered kitchen faucet and recommended that DOE consider amending the definition of a kitchen faucet to encompass any terminal fitting designed for discharge into a kitchen sink at a water supply pressure of 20 psi or more. (Efficiency Advocates, No. 8 at p. 1)

PMI agreed with DOE's understanding of the key differences between low-pressure water dispensers, pot fillers, and conventional kitchen faucets. PMI commented that test procedures should not be updated to include testing for low-pressure water dispensers or pot fillers given the function for those products and water conservation is not applicable to these products, as their intended use is for filling vessels with specific volumes of water, and that measuring the flow rate would not result in significant water savings. (PMI, No. 5 at p. 2–4)

Ziesenheim suggested that low-pressure water dispensers have the potential to conserve water, though in a slightly different capacity than traditional faucets, because the low pressure aspect of such water dispensers would allow for more precision in filling the vessel, which would decrease the likelihood of dispensing more water than needed. Ziesenheim recommended that DOE incorporate a definition of low-pressure water dispensers into the Federal regulations for faucets and showerheads and use this definition to develop testing procedures and coverage

under energy conservation standards. (Ziesenheim, No. 3 at p. 1)

Further, DOE received several comments regarding potential test procedures for both low-pressure water dispensers and pot fillers.

PMI commented that the test procedures should not be updated to include testing for low-pressure water dispensers or pot fillers, given the functions of these products. (PMI, No. 5 at p. 3) PMI added that low-pressure water dispensers are intended to operate at or around 15 psi in the field, and that these products are tested for a maximum flow rate of 1.5 gpm at 15 psi, per the ASME A112.18.1–2018 requirements. PMI commented that manufacturers are already testing low-pressure water dispensers to ASME A112.18.1–2018 for certification purposes. (PMI, No. 5 at p. 5)

ASA stated that there may not be a typical water pressure for low-pressure water dispensers—other than a maximum pressure of 15 psi—because the ASME definition requires the pressure reducing valve that regulates the pressure to the dispenser to be 15 psi or less. ASA also commented that the dispenser is typically part of a system of which the inter-relationship between the dispensing system components is a design choice by a manufacturer. ASA stated that if the DOE test procedure is not consistent with the industry consensus standard, there would be anticipated additional costs associated with having to test to two different requirements for low-pressure water dispensers. (ASA, No. 6 at p. 3)

As characterized by DOE in the September 2021 RFI and consistent with comments, the purpose of low-pressure water dispensers and pot fillers is to fill a vessel with water (*e.g.*, a glass or a cooking vessel). Given this function, the amount of water provided by such products during consumer use would be dependent on the volume of the vessel and independent of the flow rate of the product. Establishing conservation standards for such products in terms of a maximum flow rate in gallons per minute (“gpm”) would not result in any water savings because the volume of water provided by such products is dictated by the vessel to be filled as opposed to the flow rate. Furthermore, establishing conservation standards could diminish the usefulness of such products by increasing the amount of time required to fill a vessel with a particular volume of water. Further, a test procedure that would measure the flow rate of such products would not provide meaningful information to consumers related to water usage.

Based on the foregoing, DOE has tentatively determined that that low-pressure water dispensers and pot fillers are not within the definition of “faucet” for the purposes of Part A of EPCA. Accordingly, DOE is proposing to amend the definition of “faucet” at 10 CFR 430.2 to explicitly exclude low-pressure water dispensers and pot fillers. DOE proposes to define a faucet as “a lavatory faucet, kitchen faucet, metering faucet, or replacement aerator, excluding low-pressure water dispensers and pot fillers.”

DOE requests comment on its proposed amendment to the definition of “faucet” to explicitly exclude “low-pressure water dispensers” and “pot fillers.”

DOE proposes to add a definition for low-pressure water dispensers in 10 CFR 430.2. ASME A112.18.1–2018 defines a low-pressure water dispenser as “a terminal fitting located downstream of a pressure reducing valve that dispenses drinking hot water above 71 °C (160 °F) or cold water or both at a pressure of 105 kPa (15 psi) or less.” DOE notes that its authority generally applies to products as manufactured, not to the installation of products. (*See generally* 42 U.S.C. 6302) Therefore, DOE is proposing to modify the ASME A112.18.1–2018 definition to reference a product as manufactured, as opposed to its installation location. Additionally, DOE is proposing to exclude the drinking water temperature references. DOE has tentatively determined that the specified pressure is the relevant characteristic that would distinguish a low-pressure water dispenser from a faucet as defined for the purpose of applicability of the test procedure. Accordingly, DOE is proposing to define low-pressure water dispenser as “a terminal fitting that dispenses drinking water at a pressure of 105 kPa (15 psi) or less.”

DOE requests comment on proposing to adopt the ASME A112.18.1–2018 definition for “low-pressure water dispenser,” with modification as described.

DOE tries to identify physical features in its definitions that would allow a third-party to easily distinguish between products. DOE has stated that relying on a manufacturer’s intent can reduce regulatory transparency, and creates challenges for enforcement. 87 FR 13901, 13904. Due to these concerns with trying to interpret whether a product is designed to operate downstream of a pressure reducing valve or not, DOE is also considering including other physical features in the definition that would allow low-pressure water dispensers to be easily

identified, absent any information from the manufacturer. Based on research of these products, DOE understands that low-pressure water dispensers tend to have smaller diameter fittings for water connections. DOE observed that low-pressure water dispensers have ¼” compression fittings, which is slightly smaller than the typical ⅜” compression fitting of a faucet.

DOE requests comment as to any additional physical features that distinguish a low-pressure water dispenser from a faucet.

DOE requests comment as to whether a ¼” compression fitting could be universally identified as a universal characteristic of low-pressure water dispensers that distinguishes it from faucets.

Unlike “low-pressure water dispenser,” ASME A.112.18.1–2018 does not define pot filler. DOE notes the concern raised by the Efficiency Advocates that pot fillers could be installed over a kitchen sink. DOE assessed products marketed as residential pot fillers and observed several characteristics that make it unlikely for a pot filler to be installed for regular discharge into a kitchen sink.

All the residential pot fillers DOE observed have an articulated arm. The reason pot fillers have an articulated arm is because it allows the pot filler to extend over a cooking surface, such as burners on a range, to fill pots. When not in use, the articulation allows the pot filler to be pushed flat against the wall and out of the way of the cooking surface. Further, DOE observed that pot fillers have two shut-off valves, one located at or near the wall and the other located at or near the output of the pot filler. Given that pot-fillers are typically installed over locations that do not have a drain (*i.e.*, over a stove), the two shut-off valves minimize the chance of accidentally turning on the pot filler when there is not a vessel underneath because an accidental bumping of one shut-off valve from the off to the on position does not turn on the pot filler. Lastly, DOE observed that pot fillers are designed for a single supply line (*e.g.*, cold water), limiting their suitability for use as a kitchen faucet, which are generally supplied with both hot and cold water.

Based on these identifying characteristics, DOE proposes to define pot filler in 10 CFR 430.2 as “a terminal fitting with an articulated arm and two or more shut-off valves that can accommodate only a single supply water inlet.”

DOE requests comments on the proposed definition of “pot filler” and whether other characteristics would

more appropriately distinguish pot fillers from faucets, as defined by EPCA and DOE.

## 2. Showerheads

EPCA defines “showerhead” as “any showerhead (including a handheld showerhead), except a safety shower showerhead.” (42 U.S.C 6291(31)(D))

DOE also defines “hand-held showerhead” to mean a showerhead that can be held or fixed in place for the purpose of spraying water onto a bather and that is connected to a flexible hose. 10 CFR 430.2. “Safety shower showerhead” is defined as a showerhead designed to meet the requirements of International Equipment Safety association (“ISEA”) standard ISEA Z358.1, *American National Standard for Emergency Eyewash and Shower Equipment.*” *Id.*

On July 22, 2021, DOE issued a NOPR in which it proposed to reinstate the 2013 definition of “showerhead” by amending the regulatory definition of “showerhead” to mean “a component or set of components distributed in commerce for attachment to a single supply fitting, for spraying water onto a bather, typically from an overhead position, excluding safety shower showerheads.” 86 FR 38594, 38597, 38607 (“July 2021 NOPR”).<sup>6</sup> On December 20, 2021, DOE published a final rule that adopted the definition of “showerhead” as proposed in the July 2021 NOPR. 86 FR 71797 (“December 2021 Final Rule”).

In the September 2021 RFI, DOE requested comment on the definitional updates in ASME A112.18.1–2018 as it relates to showerheads. 86 FR 49261, 49264. Specifically, DOE discussed that ASME A112.18.1–2018 added new definitions for “hand-held shower” and “rain shower.” *Id.* Regarding “hand-held shower” DOE stated the DOE definition is almost identical to the definition in the ASME industry standard, and therefore tentatively concluded that there is no reason to update this definition now. *Id.* Regarding “rain shower,” DOE noted that the new definition was added to ASME A112.18.1–2018 in light of the standard’s new spray force requirements specific to rain showers. *Id.* However, DOE tentatively concluded that there is no reason to include the term and definition for rain shower because the DOE test procedure only measures maximum water consumption and not spray force. *Id.*

PMI commented that it concurs with DOE’s proposal from the July 2021

NOPR to adopt the definition of showerhead that was effective in 2013. (PMI, No. 5 at p. 6) ASA and PMI stated that DOE should complete the new showerheads definition rulemaking before taking any further action on showerheads. (ASA, No. 6 at p. 3; PMI, No. 5 at p. 6) As explained previously, DOE has published a final rule adopting the proposed definition.

Regarding a definition of “rain shower,” PMI commented that there is no reason to include the term and definition for rain shower because testing of flow rate for a rain shower would be the same as testing a showerhead. PMI stated that the ASME industry standard only added a definition for rain shower to address unique spray force requirements. (PMI, No. 5 at p. 4) PMI also commented that the current definitions are effective and new definitions are not necessary. (PMI, No. 5 at p. 5) ASA commented that adding a definition for rain shower would not serve a purpose because the definition was added in the ASME industry standard to support a spray force test method, not flow rate. (ASA, No. 6 at p. 2) Separately, Efficiency Advocates stated that they agree that there is no need to make any updates to the definition of “hand-held showerhead” nor to provide a separate definition for the term rain shower. (Efficiency Advocates, No. 8 at p. 3)

For the reasons discussed by stakeholders in their public comments and by DOE in the September 2021 RFI, DOE is not proposing to amend the definition of “hand-held showerhead” and is not proposing to define “rain shower.”

DOE also received several comments on body sprays. In response to the September 2021 RFI, CA IOUs recommended that DOE clarify that body sprays, regardless of orientation, are subject to regulatory coverage and that they must meet the same flow rate requirement as showerheads. The CA IOUs commented that the California Code of Regulations, Title 20 Appliance Efficiency Regulations states that a showerhead is “a device through which water is discharged for a shower bath and includes a body sprayer and handheld showerhead but does not include a safety showerhead.” (CA IOUs, No. 7 at p. 1–2) The Efficiency Advocates commented that DOE should make clear that the products that DOE describes as “body sprays” are showerheads and must meet the showerhead definition. The Efficiency Advocates asserted that since products marketed as body sprays may just as easily be installed in an overhead position as in any other position, these

products meet the statutory definition of showerhead, *i.e.*, that “showerheads” spray water “typically from an overhead position.” Further, the Efficiency Advocates stated that the use of “typically” may leave ambiguity for products that spray from another position or from multiple positions, depending simply on installation. (Efficiency Advocates, No. 8 at p. 4)

In the December 2021 Final Rule, DOE withdrew the definition for body spray.<sup>7</sup> 86 FR 71797, 71806. DOE stated that the definition was inconsistent with the express purpose of EPCA to conserve water and does not best address the relationship between body sprays and showerheads. *Id.* at 86 FR 71799. Further, DOE stated that industry standards and the marketplace treat “showerheads” and “body sprays” similarly, with the only difference being in the installation location. *Id.*

DOE notes that the regulatory definition of showerhead includes the provision “typically from an overhead position.” 10 CFR 430.2 Given the “typically from an overhead position” language in the definition, DOE cannot make a general statement that all body sprays are showerheads as some body sprays are installed exclusively at body height and exclusively spray horizontally (*i.e.*, are not overhead). DOE has previously stated that when testing a shower tower (also known as “shower panel”) assemblies, which includes body sprays, the components that are typically overhead (*i.e.*, the main showerhead and hand-held showerheads) are to be tested with the full flow diverted to those components only. In addition, where it is not possible to isolate the covered portion of the shower tower, DOE stated that all components are to be flowing at the maximum rate and the showerhead (*which encompasses the component or set of components that are “typically from an overhead position”*) measured separately. 78 FR 62970, 62975. Consistent with this testing, the definition of “showerhead” only includes products that are “typically from an overhead position.” To the extent that a body spray meets the definition of “showerhead,” such product is subject to the 2.5 gpm standard regardless of the consumer installation orientation.

### B. Updates to Industry Standards

Appendix S currently references ASME A112.18.1–2012 for the flow rate

<sup>6</sup> DOE also proposed to remove the regulatory definition of “body spray.” *Id.*

<sup>7</sup> On December 16, 2020, DOE published a final rule that adopted a definition for “body spray” as “a shower device for spraying water onto a bather from other than the overhead position. A body spray is not a showerhead.” 85 FR 81341, 81359.

test method. In the September 2021 RFI, DOE discussed that ASME A112.18.1–2012 was updated to the 2018 version, and that the main updates included provisions to accommodate testing low-pressure water dispensers. 86 FR 49261, 49625. As discussed in section III.A.1 of this document, DOE is proposing to define low-pressure water dispensers and pot fillers, and explicitly exclude these from the faucets definition. Therefore, DOE is not proposing to establish test procedures for low-pressure water dispensers and pot fillers.

Regarding showerheads, DOE discussed in the September 2021 RFI that ASME A112.18.1–2018 does not contain any updates to the water consumption test method for showerheads. 86 FR 49261, 49625. ASA commented that no amendments are needed for the current DOE test procedure for showerheads. (ASA, No. 6 at p. 3) PMI stated that no changes to the existing test procedure for showerheads are needed, once the 2013 definition of showerhead is finalized, because the current test procedures adequately assess the flow rate of showerheads. (PMI, No. 5 at p. 6) The Efficiency Advocates asserted that the test procedures for faucets and showerheads would more accurately and fully produce results that measure water use, if DOE adopted modifications to some elements of the water consumption test in the revised standard. (Efficiency Advocates, No. 8 at p. 2) A discussion of this comment appears in the next section.

In this NOPR, DOE is proposing to update the faucets and showerheads test procedure to reference the latest version of the industry standard, which is ASME A112.18.1–2018. As previously discussed, the updated standard does not include any amendments to the test procedures for faucets, as proposed to be defined by this NOPR, or for showerheads. DOE has tentatively determined that referencing the most recent version of ASME A112.18.1–2018 would not impact (1) the measured values of water use for faucets or showerheads under appendix S, (2) the representativeness of the results, or (3) the test burden.

DOE requests comment on its proposal to incorporate by reference ASME A112.18.1–2018.

### C. Additional Direction in Conducting ASME A112.18.1–2018

As discussed, DOE's current test procedure for evaluating the flow rate of faucets and showerheads is at appendix S and references ASME A112.18–2012. Specifically, DOE adopts through

reference ASME A112.18.1–2012 Sections 5.4 and 5.4.2.2 which specify two alternate methods for measuring the flow rate of showerhead and faucets. One method, described as the fluid meter test, relies on a fluid meter installed upstream of the showerhead or faucet for measuring the flow rate. The second method, described as the time/volume method, relies on a container placed downstream of the showerhead or faucet that collects the water output during a measured period of time. The flow rate calculation divides the volume of water collected by the duration of time.

As discussed in section III.B of this document, DOE is proposing to incorporate by reference ASME A112.18.1–2018. The two methods for measuring flow rate in ASME A112.18.1–2018 are identical to those in ASME A112.18.1–2012.

In response to the September 2021 RFI, the Efficiency Advocates asserted that ASME A112.18.1–2018 carries forth several deficiencies in both methods from early versions of the test procedure. (Efficiency Advocates, No. 8 at p. 2) Regarding testing of flow rate using the fluid meter test, the Efficiency Advocates commented that the industry test procedure lacks direction as to: (1) The type of meter acceptable for test; (2) the normal operating range of the fluid meter and its suitability to the target flow of the test; (3) a description of the meter's register, including incremental units of measurement; and (4) requirements for preconditioning of the meter before or between tests. *Id.*

The Efficiency Advocates also commented that the industry test procedure for the time/volume test lacks direction as to: (1) The required dimensions of the receiving container; (2) any distance or orientation between the specimen and container to preclude the possibility of splashing water escaping; (3) the means of measuring the volume of water in the container or deriving the volume of water from the weight of the collected water; and (4) recording of elapsed time. *Id.* The Efficiency Advocates suggested that DOE supplement ASME A112.18.1–2018 with additional direction to ensure better accuracy, similar to DOE's previous instruction that any container in the time/volume test be positioned to capture any leakage from the ball joint of the shower head. The Efficiency Advocates asserted that addressing these gaps is unlikely to render testing unduly burdensome, but would be likely to ensure greater standardization in test procedures and instill greater confidence in test results. (*Id.* at pp. 2–3) Further, the Efficiency Advocates

commented that any inaccuracies would be amplified if standards are lowered and because some states with more stringent standards reference the DOE test procedure, the additional standardization is needed. (*Id.* at pp. 2–3)

In response to similar comments received prior to the October 2013 Final Rule, DOE determined that there was no evidence that the time/volume test method in ASME A112.18.1 did not meet the statutory requirements at 42 U.S.C. 6293(b)(3) for DOE to prescribe test procedures that are reasonably designed to produce test results that measure water use during a representative average use cycle or period of use. 78 FR 62970, 62975.

While DOE does not currently have any evidence that the current test procedure is resulting in inaccurate measurements of flow rates for faucets or showerheads, DOE is proposing additional detail to ensure that amendments to the test procedure would provide more accurate results.

DOE conducted a thorough review of ASME A112.18.1–2018 and consulted two testing laboratories to identify common practices that DOE has tentatively determined address the concerns identified by the Efficiency Advocates without creating undue burden when testing. DOE also reviewed other similar test procedures, such as ASTM International ("ASTM") F2324 "Standard Test Method for Prerinse Spray Valves," which is currently incorporated by reference at 10 CFR 431.263 and referenced in 10 CFR 431.264 "Uniform test method to measure flow rate and spray force of commercial prerinse spray valves." The ASTM F2324 test method uses a time/volume test method to measure the flow rate of commercial prerinse spray valves.

Regarding testing using the fluid meter test method in ASME A112.18.1–2018, DOE notes that many different types of acceptable fluid meters could be used. The consultation with the test laboratories suggested that there are several different types of fluid meters that they currently use, but so long as the fluid meter is rated for the product flow rate and has been calibrated, any fluid meter type is accurate. The test laboratories indicated further that the fluid meters they use are capable of measuring with a precision of a minimum of two significant figures.

Based on what DOE has identified as current laboratory practice, DOE is proposing to add language to appendix S requiring that if the fluid meter test is used, the fluid meter must be rated for the flow rate range of the product being

tested. Further, DOE proposes that the fluid meter must be calibrated in accordance with manufacturer printed instructions and at the frequency specified in the manufacturer printed instructions. Finally, DOE proposes that the fluid meter must be capable of reporting flow rate to a resolution of no less than two significant figures.

DOE requests comment on the proposed additional specifications for the fluid meter test and whether the proposed additional guidance is consistent with current industry practice.

Regarding testing using the time/volume test method in ASME A112.18.1–2018, the test laboratories commented that they vary the type of receiving containers to ensure minimal water loss due to splashing. ASTM F2324 states that the receiving container should be a “carboy, or equivalent container, for measuring the weight of the water during the flow rate test. A 5-gal (19-L) carboy water bottle has been found suitable (the carboy is the standard water bottle that is used for water coolers)” and further adds “Note: 1—The 5-gal (19-L) carboy container is the preferred container. With a narrow opening, the carboy captures all the water during the test at higher water pressure which can result in excess splashing.”

A carboy may not be appropriate for testing of showerheads as the surface area of a showerhead is often larger than the carboy opening. However, instruction to address the potential for splashing would apply equally to the testing of showerheads. Reasonable efforts to control splashing would include use of a container with a narrower opening or a partial cover of the container.

The test laboratories stated that the time/volume test is conducted for at least a minute, in accordance with Section 5.4.2.2 of ASME A112.18.1–2018, and that the timing is measured with a stopwatch with a resolution of 0.1 seconds. Once the time/volume test has concluded, test labs stated that they convert the mass of water to a volume based on the specific gravity of the water at the measured temperature.

In accordance with existing practices, DOE is proposing to add language to appendix S requiring that if the time/volume test is used, the receiving container must be of sufficient size to contain all the water for a single test and have an opening size and/or a partial cover, such that loss of water from splashing is minimized. Further, DOE proposes to specify that the time/volume test is conducted for a minimum of one minute and that time is measured

using a stopwatch with a minimum resolution of 0.1 seconds. DOE proposes to clarify that measuring and recording the temperature of the water in this type of test requires a thermocouple or similar device and only the following two approaches are permissible: (1) At the receiving container immediately after recording the mass of water, or (2) at the water in the supply line any time during the duration of the time/volume test. In addition, DOE proposes to require measuring the mass of water to at least two significant figures following the time/volume test and converting the mass to volume based on the specific gravity of water at the recorded temperature. As discussed, the proposed amendments providing additional specificity reflect an accurate method for measuring flow rate and reflect current testing practice, and therefore would not affect testing burden.

DOE requests comment on the proposed additional specifications for the time/volume test method and whether there is any additional burden associated with the proposed additional specifications.

DOE also requests comment on its determination that the proposed methods for measuring the temperature of water align with current industry practices for when conducting the time/volume test.

#### *D. Flow Restrictor Retention Test Method*

The current standards for showerheads include a requirement that when used as a component of a showerhead, a flow-restricting insert must be mechanically retained at the point of manufacture such that a force of 8.0 pounds force (lbf) (36 Newtons) or more is required to remove the flow-restricting insert, except that this requirement does not apply to showerheads for which removal of the flow-restricting insert would cause water to leak significantly from areas other than the spray face. 10 CFR 430.32(p).

In response to the September 2021 RFI, the Efficiency Advocates recommended that DOE propose a test method for flow restrictor retention to verify compliance with the flow restrictor insert requirement. They stated that flow restrictors serve a critical function and asserted that their casual removal jeopardizes the effectiveness of the standard and its intended savings of energy and water. They stated that DOE considered this issue in 2012–2013, and developed a draft test of flow restrictor retention, but ultimately reached no conclusion and

deferred the issue for a future date. (Efficiency Advocates, No. 8 and p. 3).

As noted by the Efficiency Advocates, DOE considered a test method for flow restricting insert requirement during the previous rulemaking. DOE proposed a simplified gravity pull-style test method for verification of compliance with the requirements. 78 FR 20832, 20835–20836 (Apr. 8, 2013). DOE based the proposal on tests that were conducted on 21 showerheads, which included a variety of brands and styles. The showerheads tested had disc inserts made of plastic or rubber.<sup>8</sup> *Id.* In conjunction with the proposal, DOE also published a technical support document (“TSD”) that summarized the systematic assessment DOE performed to arrive at the proposed test method.<sup>9</sup> On July 30, 2013, DOE held an additional public meeting to receive comments on DOE’s proposed test to verify mechanical retention of a showerhead flow restrictor when subjected to 8 lbf. 78 FR 42719 (July 17, 2013).

DOE received comments from stakeholders stating that: (1) There are thousands of showerhead geometries that require various methods to measure the 8 pound-force limit for flow restrictor removal (PMI, EERE–2011–BT–TP–0061, No. 36 at p. 2); (2) there is not one method to test all inserts that that ANSI Recognized Certifying Bodies perform the 8 pound-force test depending on the geometry of the faucet (PMI, EERE–2011–BT–TP–0061, No. 36 at p. 4); (3) because a product would have to be tested in a specific manner, it would unavoidably hinder design flexibility (Moen, EERE–2011–BT–TP–0061, No. 30 at p. 2); (4) flow restrictor removal is not a widespread issue because most users are sufficiently satisfied with current showerhead performance (Moen, EERE–2011–BT–TP–0061, No. 30 at p. 2); and (5) for the majority of users, removal of the

<sup>8</sup> These were the only types for which a test procedure may be appropriate. In general, DOE found four basic flow restrictor designs—(1) Plastic discs, (2) Rubber discs, (3) Permanent flow control and (4) Sealing gasket. DOE determined that the permanent flow control designs automatically met the design requirement because they did not contain a flow restrictor that could be removed (*i.e.*, it was integral to the showerhead). There is no need to test showerheads that used a sealing gasket as the flow control mechanism were exempt from the design requirement because the removal of the flow-restrictor would cause water to leak significantly from areas other than the spray face. 78 FR 20832, 20836.

<sup>9</sup> Supplemental Notice of Proposed Rulemaking TSD: Energy Conservation Program Consumer Products and Certain Commercial and Industrial Equipment: Test Procedures for Showerheads, Faucets, Water Closets, Urinals, and Commercial Prerinse Spray Valves. Showerhead Flow Control Insert Retention Testing; [www.regulations.gov/document/EERE-2011-BT-TP-0061-0033](http://www.regulations.gov/document/EERE-2011-BT-TP-0061-0033).

showerhead from the shower arm, including the identification and removal of the correct components, is a sufficient amount of work to deter them from altering their product (Moen, EERE–2011–BT–TP–0061, No. 30 at p. 2). In October 2013 Final Rule and in consideration of comments received, DOE stated that further investigation of this issue was necessary to understand clearly any prospective impacts of the proposed test procedure prior to finalizing a test method, and did not finalize a test method. 78 FR 62970, 62974.

The latest version of the industry standard, ASME A112.18.1–2018, continues not to include any test method for showerhead flow retention. DOE understands the main issue in developing a test method is that there are numerous flow restrictor configurations and there may not be one test method to suit all possible flow restrictors. For example, regarding a pull-style test method as previously considered by DOE, one commenter stated that many flow restrictors do not have sufficient surface area or protrusion onto which a clamp can be fastened for the test. (Kohler, EERE–2011–BT–TP–0061, No. 34 at p. 1) Given the variation in design, DOE tentatively continues to find that a test method may hinder product design. Moreover, DOE does not have any indication that there is an issue in practice with customers removing flow restriction devices. For the reasons discussed, DOE is not proposing a test method for flow restrictor retention.

DOE requests comment and data on the prevalence of flow restrictors being removed from a showerhead by consumers.

#### *E. Reporting*

Manufacturers, including importers, must use product-specific certification templates to certify compliance to DOE. For faucets and showerheads, the certification template reflects the general certification requirements specified at 10 CFR 429.12 and the product-specific requirements specified at 10 CFR 429.28 and 10 CFR 429.29. DOE is not proposing to amend the product-specific certification requirements for these products.

#### *F. Clarification to 10 CFR 430.23 and Appendix S*

10 CFR 430.23(s) and (t) provide the test procedures for the measurement of water consumption for faucets and showerheads, respectively. 10 CFR 430.23(s) requires that “the maximum permissible water use allowed for lavatory faucets, lavatory replacement

aerators, kitchen faucets, and kitchen replacement aerators, expressed in gallons and liters per minute (gpm and L/min), shall be measured in accordance to section 2(a) of appendix S of this subpart. The maximum permissible water use allowed for metering faucets, expressed in gallons and liters per cycle (gal/cycle and L/cycle), shall be measured in accordance to section 2(a) of appendix S of this subpart.”

Similarly, 10 CFR 430.23(t) requires that “the maximum permissible water use allowed for showerheads, expressed in gallons and liters per minute (gpm and L/min), shall be measured in accordance to section 2(b) of appendix S of this subpart.” The language “maximum permissible water use” in the aforementioned sections is incorrect, as the test procedures measure water use. The term “maximum permissible water use” is instead descriptive of a conservation standard. As such, DOE is proposing to replace the language “the maximum permissible water use allowed” in 10 CFR 430.23(s) and 10 CFR 430.23(t) with “the water use.” This amendment would clarify that the DOE test procedures measure water use, whereas the standards in 10 CFR 430.32(s) and (t) establish the maximum allowable water use for water closets and urinals, respectively.

DOE requests comment on the proposed updates for faucets and showerheads to replace “maximum permissible water use allowed” with “water use” in 10 CFR 430.23(s) and (t), respectively.

Similarly, 10 CFR 430.23(s), 10 CFR 430.23(t), and appendix S state that water use should be expressed in “gallons and liters per minute (gpm and L/min).” The proposed wording is unclear and could imply that manufacturers need to express results in both gpm and L/min. Instead, manufacturers should use appendix S for results expressed in gpm or L/min. Manufacturers do not have to report both. As such, DOE is proposing to update language to state that water use is expressed in gallons or liters per minute.

DOE requests comment on the proposed updates for faucets and showerheads to replace “gallons and liters per minute” with “gallons or liters per minute.”

#### *G. Test Procedure Costs and Harmonization*

##### *1. Test Procedure Costs and Impact*

In this NOPR, DOE proposes to amend the existing test procedure for faucets and showerheads by updating references to the current industry

standard, defining low-pressure water dispensers and pot fillers and explicitly excluding them from the definition of faucet, and specifying additional instruction for conducting the flow rate tests in ASME A112.18.1–2018 reflective of current testing laboratory practice. DOE has tentatively determined that these proposed amendments would not impact testing costs as discussed in the following paragraphs.

##### *a. Update References to the Relevant Industry Standard*

DOE proposes to update references to the current version of the industry standard, ASME A112.18.1–2018. As stated in section III.B of this document, the main updates between ASME A112.18.1–2012, which is currently incorporated, and ASME A112.18.1–2018 accommodate low-pressure water dispenser testing.

DOE is proposing to exclude explicitly low-pressure water dispensers from the definition of faucet and therefore from the scope of the DOE test procedure for faucets. As such, DOE has tentatively determined that the updates to the industry standard would not affect testing of faucets or showerheads or the measured flow rates. Therefore, DOE has tentatively determined that the proposed amendments would not affect the representations of faucet or showerhead water use. Based on this tentative determination, manufacturers would be able to rely on data generated under the current test procedure if DOE adopts the proposed amendments. As such, retesting of showerheads and faucets would not be required solely as a result of DOE’s adoption of the proposed amendments to the test procedure.

DOE requests comment on the impact and associated costs of the proposed amendment to incorporate by reference the latest version of the industry standard, ASME A112.18.1–2018.

##### *b. New and Amended Definitions*

DOE proposes to define low-pressure water dispensers and pot fillers and amend the definition of faucets to explicitly exclude those products. These products were not previously considered within the scope of the faucet definition and the proposed amendments clarify the scope of the faucet definition. Accordingly, DOE has tentatively determined that the proposed definitions of low-pressure water dispensers and pot fillers and their explicit exclusion from the definition of faucet would not affect which products are currently subject to testing under the DOE test procedure.

DOE requests comment on the impact and associated costs of the proposed amendment to define low-pressure water dispensers and pot fillers and to exclude them explicitly from the faucets definition.

#### c. Additional Direction in Conducting ASME A112.18.1

In addition to the proposed adoption of the test provisions in ASME A112.18.1–2018, DOE proposes other clarifications to the test procedure, namely specification on equipment and instrumentation, measurement precision, and calculation of flow rate. As discussed, DOE has tentatively determined that the additional specifications reflect existing test laboratory practices. As such, DOE has tentatively determined that the proposed amendments would not affect the representations of faucet or showerhead water use. DOE has tentatively determined that manufacturers would be able to rely on data generated under the current test procedure if DOE adopts the proposed amendments. DOE does not expect retesting of faucets would be required solely as a result of DOE's adoption of the proposed amendments to the test procedure. Moreover, DOE has tentatively determined that the additional specifications would not impact the testing cost, as they would reflect current practice.

DOE requests comment on the impact and associated costs of the proposed amendment to add clarifications about conducting testing under ASME A112.18.1–2018.

#### 2. Harmonization With Industry Standards

DOE's established practice is to adopt relevant industry standards as DOE test procedures unless such methodology would fall short of EPCA's requirements that DOE's test procedure be unduly burdensome to conduct or would not produce test results that reflect the energy efficiency, energy use, water use or estimated operating costs of that product during a representative average use cycle or period of use. Section 8(c) of appendix A of 10 CFR part 430 subpart C. When the industry standard does not meet EPCA statutory criteria for test procedures, DOE will make modifications through the rulemaking process to these standards as the DOE test procedure.

The test procedures for faucets and showerheads at appendix S adopt through reference the relevant provisions of ASME A112.18.1–2012. The provisions of the industry standard referenced in the Federal test procedure

provide procedures for testing and measuring water consumption, specifications for test apparatus, and other general requirements. The industry standard DOE proposes to incorporate by reference via amendments described in this NOPR are discussed in further detail in section IV.M of this document.

DOE requests comments on the benefits and burdens of the proposed updates and additions to industry standards referenced in the test procedure for faucets and showerheads.

#### H. Compliance Date

EPCA prescribes that, if DOE amends a test procedure, all representations of energy efficiency and energy use, including those made on marketing materials and product labels, must be made in accordance with that amended test procedure, beginning 180 days after publication of such a test procedure final rule in the **Federal Register**. (42 U.S.C. 6293(c)(2))

If DOE were to publish an amended test procedure EPCA provides an allowance for individual manufacturers to petition DOE for an extension of the 180-day period if the manufacturer may experience undue hardship in meeting the deadline. (42 U.S.C. 6293(c)(3)) To receive such an extension, petitions must be filed with DOE no later than 60 days before the end of the 180-day period and must detail how the manufacturer will experience undue hardship. (*Id.*)

#### IV. Procedural Issues and Regulatory Review

##### A. Review Under Executive Orders 12866 and 13563

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” as supplemented and reaffirmed by E.O. 13563, “Improving Regulation and Regulatory Review, 76 FR 3821 (Jan. 21, 2011), requires agencies, to the extent permitted by law, 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 E.O. 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 (“OIRA”) in the Office of Management and Budget (“OMB”) 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, this proposed regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to OIRA for review. OIRA has determined that this proposed regulatory action does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this action was not submitted to OIRA for review under E.O. 12866.

##### B. 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 DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website: [www.energy.gov/gc/office-general-counsel](http://www.energy.gov/gc/office-general-counsel).

The Small Business Administration (“SBA”) considers a business entity to be a small business, if, together with its affiliates, it employs less than a threshold number of workers or earns less than the average annual receipts specified in 13 CFR part 121. The threshold values set forth in these

regulation use size standards codes established by the North American Industry Classification System (“NAICS”) that are available at: [www.sba.gov/document/support--table-size-standards](http://www.sba.gov/document/support--table-size-standards). Plumbing equipment manufacturers are classified under NAICS 332913 “Plumbing Fixture Fitting and Trim Manufacturing,” and NAICS 327110 “Pottery, Ceramics, and Plumbing Fixture Manufacturing.” The SBA sets a threshold of 1,000 employees or fewer for an entity to be considered a small business within these categories.

As described in section III.G., DOE has tentatively concluded that none of the proposed test procedure amendments would result in increased costs to manufacturers. Accordingly, DOE initially concludes that the impacts of the proposed test procedure amendments proposed in this NOPR would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit the certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

DOE requests comment on its assessment that there would be no costs to small businesses as a result of the proposed test procedure amendments.

#### C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of showerheads and faucets must certify to DOE that their products comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedures, 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 showerheads and faucets. (See generally 10 CFR part 429.) 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 35 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.

DOE is not proposing to amend the certification or reporting requirements

for showerheads and faucets in this NOPR. Instead, DOE may consider proposals to amend the certification requirements and reporting for showerheads and faucets under a separate rulemaking regarding appliance and equipment certification. DOE will address changes to OMB Control Number 1910–1400 at that time, as necessary.

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.

#### D. Review Under the National Environmental Policy Act of 1969

In this NOPR, DOE proposes test procedure amendments that it expects will be used to develop and implement future energy conservation standards for faucets and showerheads. DOE has determined that this proposed rule falls into a class of actions that are categorically excluded from 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. Specifically, DOE has determined that adopting test procedures for measuring energy efficiency of consumer products and industrial equipment is consistent with activities identified in 10 CFR part 1021, appendix A to subpart D, A5 and A6. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

#### E. Review Under Executive Order 13132

Executive Order 13132, “Federalism,” 64 FR 43255 (Aug. 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. 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. DOE has examined this proposed rule and has determined that it would

not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed 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(d)) No further action is required by Executive Order 13132.

#### F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, “Civil Justice Reform,” 61 FR 4729 (Feb. 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. 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, the proposed rule meets the relevant standards of Executive Order 12988.

#### G. 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 proposed 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; also available at [www.energy.gov/gc/office-general-counsel](http://www.energy.gov/gc/office-general-counsel). DOE examined this proposed rule according to UMRA and its statement of policy and determined that the 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.

#### *H. 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 proposed 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.

#### *I. Review Under Executive Order 12630*

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

#### *J. Review Under 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 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). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at [www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf](http://www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf). DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

#### *K. 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 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.

The proposed regulatory action to amend the test procedure for measuring the water consumption of faucets and showerheads is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

#### *L. Review Under Section 32 of the Federal Energy Administration Act of 1974*

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–

91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; “FEAA”) Section 32 essentially provides in relevant part 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 Attorney General and the Chairman of the Federal Trade Commission (“FTC”) concerning the impact of the commercial or industry standards on competition.

The proposed modifications to the test procedures for faucets and showerheads would incorporate testing methods contained in certain sections of the following commercial standards: ASME A112.18.1–2018. DOE has evaluated these standards and is unable to conclude whether they fully comply with the requirements of section 32(b) of the FEAA (*i.e.*, whether it was developed in a manner that fully provides for public participation, comment, and review.) DOE will consult with both the Attorney General and the Chairman of the FTC concerning the impact of these test procedures on competition, prior to prescribing a final rule.

#### *M. Description of Materials Incorporated by Reference*

In this NOPR, DOE proposes to incorporate by reference the test standard published by American Society of Mechanical Engineers (“ASME”) and the Canadian Standards Association (“CSA Group”), designated ASME A112.18.1–2018. ASME A112.18.1–2018 is an industry-accepted test procedure that measures water consumption for faucets and showerheads, and is applicable to products sold in North America. The sections of ASME A112.18.1–2018 referenced are Section 5.4 “Flow rate” which includes Section 5.4.1 “Supply fittings” and Section 5.4.2 “Test procedure,” which outline the procedures for testing and measuring water consumption, specifications for test apparatus, and other general requirements.

Copies of ASME A112.18.1–2018 can be obtained from American Society of Mechanical Engineers at Two Park Avenue, New York, NY 10016–5990, or by going to [www.asme.org](http://www.asme.org).

## V. Public Participation

### A. Participation in the Webinar

The time and date of the webinar meeting are listed in the **DATES** section at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's websites:

[www1.eere.energy.gov/buildings/appliance\\_standards/standards.aspx?productid=40&action=viewcurrent](http://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=40&action=viewcurrent) and [www1.eere.energy.gov/buildings/appliance\\_standards/standards.aspx?productid=2&action=viewlive](http://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=2&action=viewlive). Participants are responsible for ensuring their systems are compatible with the webinar software.

### B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this proposed rule, or who is representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit to [ApplianceStandardsQuestions@ee.doe.gov](mailto:ApplianceStandardsQuestions@ee.doe.gov). Persons who wish to speak should include with their request a computer file in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this proposed rulemaking and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

### C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar/public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the webinar/public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the webinar/public meeting and until the end of the comment period, interested parties may submit further comments on the

proceedings and any aspect of the proposed rulemaking.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the webinar/public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the webinar/public meeting.

A transcript of the webinar will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this document. In addition, any person may buy a copy of the transcript from the transcribing reporter.

### D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this proposed rule.<sup>10</sup> Interested parties

<sup>10</sup> DOE has historically provided a 75-day comment period for test procedure NOPRs pursuant to the North American Free Trade Agreement, U.S.-Canada-Mexico ("NAFTA"), Dec. 17, 1992, 32 I.L.M. 289 (1993); the North American Free Trade Agreement Implementation Act, Public Law 103-182, 107 Stat. 2057 (1993) (codified as amended at 10 U.S.C.A. 2576) (1993) ("NAFTA Implementation Act"); and Executive Order 12889, "Implementation of the North American Free Trade Agreement," 58 FR 69681 (Dec. 30, 1993). However, on July 1, 2020, the Agreement between the United States of America, the United Mexican States, and the United Canadian States ("USMCA"), Nov. 30, 2018, 134 Stat. 11 (*i.e.*, the successor to NAFTA), went into effect, and Congress's action in replacing NAFTA through the USMCA Implementation Act, 19 U.S.C. 4501 *et seq.* (2020), implies the repeal of E.O. 12889 and its 75-day comment period requirement for technical regulations. Thus, the controlling laws are EPCA and the USMCA Implementation Act. Consistent with EPCA's public comment period

may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this document.

*Submitting comments via www.regulations.gov.* The [www.regulations.gov](http://www.regulations.gov) web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to [www.regulations.gov](http://www.regulations.gov) information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information ("CBI")). Comments submitted through [www.regulations.gov](http://www.regulations.gov) cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through [www.regulations.gov](http://www.regulations.gov) before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that [www.regulations.gov](http://www.regulations.gov) provides after you have successfully uploaded your comment.

*Submitting comments via email.* Comments and documents submitted

requirements for consumer products, the USMCA only requires a minimum comment period of 60 days. Consequently, DOE now provides a 60-day public comment period for test procedure NOPRs.

via email also will be posted to [www.regulations.gov](http://www.regulations.gov). If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

**Campaign form letters.** Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

**Confidential Business Information.** Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

#### *E. Issues on Which DOE Seeks Comment*

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

(1) DOE requests comment on its proposed amendment to the definition

of "faucet" to explicitly exclude "low-pressure water dispenses" and "pot fillers."

(2) DOE requests comment on proposing to adopt the ASME A112.18.1–2018 definition for "low-pressure water dispenser," with modification as described.

(3) DOE requests comment as to any additional physical features that could be used to distinguish a low-pressure water dispenser from a faucet.

(4) DOE requests comment as to whether a ¼" compression fitting could be universally identified as a universal characteristic of low-pressure water dispensers that distinguishes it from faucets.

(5) DOE requests comments on the proposed definition of "pot filler" and whether other characteristics would more appropriately distinguish pot fillers from faucets, as defined by EPCA and DOE.

(6) DOE requests comment on its proposal to incorporate by reference ASME A112.18.1–2018.

(7) DOE requests comment on the proposed additional specifications for the fluid meter test and whether the proposed additional guidance is consistent with current industry practice.

(8) DOE requests comment on the proposed additional specifications for the time/volume test method and whether there is any additional burden associated with the proposed additional specifications.

(9) DOE also requests comment on its determination that the proposed methods for measuring the temperature of water align with current industry practices for when conducting the time/volume test.

(10) DOE requests comment and data on the prevalence of flow restrictors being removed from a showerhead by consumers.

(11) DOE requests comment on the proposed updates for faucets and showerheads to replace "maximum permissible water use allowed" with "water use" in 10 CFR 430.23(s) and (t), respectively.

(12) DOE requests comment on the proposed updates for faucets and showerheads to replace "gallons and liters per minute" with "gallons or liters per minute."

(13) DOE requests comment on the impact and associated costs of the proposed amendment to incorporate by reference the latest version of the industry standard, ASME A112.18.1–2018.

(14) DOE requests comment on the impact and associated costs of the proposed amendment to define low-

pressure water dispensers and pot fillers and to exclude them explicitly from the faucets definition.

(15) DOE requests comment on the impact and associated costs of the proposed amendment to add clarifications about conducting testing under ASME A112.18.1–2018.

(16) DOE requests comments on the benefits and burdens of the proposed updates and additions to industry standards referenced in the test procedure for faucets and showerheads.

(17) DOE requests comment on its assessment that there would be no costs to small businesses as a result of the proposed test procedure amendments.

#### **VI. Approval of the Office of the Secretary**

The Secretary of Energy has approved publication of this notice of proposed rulemaking and announcement of public meeting.

#### **List of Subjects in 10 CFR Part 430**

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

#### **Signing Authority**

This document of the Department of Energy was signed on May 23, 2022, by Kelly J. Speakes-Backman, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 24, 2022.

**Treena V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

For the reasons stated in the preamble, DOE is proposing to amend part 430 of Chapter II of Title 10, Code of Federal Regulations 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:

■ a. Revising the definition for “Faucet”; and

■ b. Adding in alphabetical order, definitions for “Low-pressure water dispenser” and “Pot filler”.

The revision and additions read as follows:

### § 430.2 Definitions.

\* \* \* \* \*

*Faucet* means a lavatory faucet, kitchen faucet, metering faucet, or replacement aerator, excluding low-pressure water dispensers and pot fillers.

\* \* \* \* \*

*Low-pressure water dispenser* means a terminal fitting that dispenses drinking water at a pressure of 105 kPa (15 psi) or less.

\* \* \* \* \*

*Pot filler* means a terminal fitting with an articulated arm and two or more shut-off valves that can accommodate only a single supply water inlet.

\* \* \* \* \*

■ 3. Section 430.3 is amended by revising paragraph (h)(1) to read as follows:

### § 430.3 Materials incorporated by reference.

\* \* \* \* \*

(h) \* \* \*

(1) ASME A112.18.1–2018/CSA B125.1–2018 (with 10/18 Errata), (“ASME A112.18.1”), “Plumbing supply fittings,” approved 2018, IBR approved for appendix S to subpart B.

\* \* \* \* \*

■ 4. Section 430.23 is amended by revising paragraphs (s) and (t) to read as follows:

### § 430.23 Test procedures for the measurement of energy and water consumption.

\* \* \* \* \*

(s) *Faucets*. Measure the water use for lavatory faucets, lavatory replacement aerators, kitchen faucets, and kitchen replacement aerators, in gallons or liters per minute (gpm or L/min), in accordance to section 2(a) of appendix S to this subpart. Measure the water use for metering faucets, in gallons or liters per cycle (gal/cycle or L/cycle), in accordance to section 2(a) of appendix S of this subpart.

(t) *Showerheads*. Measure the water use for showerheads, in gallons or liters per minute (gpm or L/min), in accordance to section 2(b) of appendix S to this subpart.

\* \* \* \* \*

■ 5. Appendix S to subpart B of part 430 is revised to read as follows:

### Appendix S to Subpart B of Part 430—Uniform Test Method for Measuring the Water Consumption of Faucets and Showerheads

**Note:** Before [date 180 Days After date of publication of the final rule in the **Federal Register**], representations with respect to the water consumption of faucets and showerheads, including compliance certifications, must be based on testing conducted in accordance with either this appendix or appendix S as it appeared in the 10 CFR parts 200–499 edition revised as of January 1, 2021.

On and after [date 180 days after date of publication of the final rule in the **Federal Register**], representations with respect to water consumption of faucets and showerheads, including compliance certifications, must be based on testing conducted in accordance with this appendix.

#### 0. Incorporation by reference

DOE incorporated by reference in § 430.3, the entire standard for ASME A112.18.1; however, only enumerated provisions of ASME A112.18.1 apply to this appendix, as follows: Section 5.4 “Flow rate,” including Figure 3 but excluding Table 1, and sections 5.4.2.3.1(a) and (c), 5.4.2.3.2(b) and (c), and 5.4.3. When there is a conflict, the language of the test procedure in this appendix takes precedence over ASME A112.18.1. Treat precatory language in ASME A112.18.1 as mandatory.

1. *Scope*: This appendix covers the test requirements to measure the hydraulic performance of faucets and showerheads.

#### 2. Flow Capacity Requirements

a. *Faucets*—Measure the water flow rate for faucets, in gallons per minute (gpm) or liters per minute (L/min), or gallons per cycle (gal/cycle) or liters per cycle (L/cycle), in accordance with the test requirements specified in Section 5.4, Flow Rate, of ASME A112.18.1. Record measurements at the resolution of the test instrumentation. Round each calculation to the same number of significant digits as the previous step. Round the final water consumption value to one decimal place for non-metered faucets, or two decimal places for metered faucets.

b. *Showerheads*—Measure the water flow rate for showerheads, in gallons per minute (gpm) or liters per minute (L/min), in accordance with the test requirements specified in Section 5.4, Flow Rate, of ASME A112.18.1. Record measurements at the resolution of the test instrumentation. Round each calculation to the same number of significant digits as the previous step. Round the final water consumption value to one decimal place. If using the time/volume method of Section 5.4.2.2(d) i, position the container to ensure it collects all water

flowing from the showerhead, including any leakage from the ball joint.

#### 2.1 General Instruction

##### 2.1.1 Fluid Meter Test Method

When using the fluid meter method of Section 5.4.2.2(c) of ASME A112.18.1 to measure flow rate, ensure the fluid meter meets the following additional requirements, first, ensure the fluid meter is rated for the flow rate range of the product being tested. Second, ensure the fluid meter has a resolution for flow rate of no less than two significant figures. Third, verify the fluid meter is calibrated in accordance with the manufacturer printed instructions.

##### 2.1.2 Time/Volume Test Method

There are several additional requirements when using the time/volume method of Section 5.4.2.2(d) of ASME A112.18.1 to measure flow rate. First, ensure the receiving container is large enough to contain all the water for a single test and has an opening size and/or a partial cover such that loss of water from splashing is minimized. Second, conduct the time/volume test for at least one minute, with the time recorded via a stopwatch with at least 0.1-second resolution. Third, measure and record the temperature of the water using a thermocouple or other similar device either at the receiving container immediately after recording the mass of water, or at the water in the supply line anytime during the duration of the time/volume test. Fourth, measure the mass of water to at least two significant figures and normalize it to gallons based on the specific gravity of water at the recorded temperature.

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2022–0590; Project Identifier MCAI–2021–01395–T]

RIN 2120–AA64

### Airworthiness Directives; MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain MHI RJ Aviation ULC Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This proposed AD was prompted by a determination that a certain nondestructive test (NDT) procedure associated with a certain airworthiness limitation for inspecting