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(iii) Whether the information is generally known by or available from other sources,

(iv) Whether the information has previously been made available to others without obligation concerning its confidentiality,

(v) An explanation of the competitive injury to the submitting person which would result from public disclosure,

(vi) A date upon which such information might lose its confidential nature due to the passage of time, and

(vii) Why disclosure of the information would be contrary to the public interest.

(d) In accordance with the procedures established in 10 CFR 1004.11(e), DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

[76 FR 12451, Mar. 7, 2011, as amended at 79 FR 25499, May 5, 2014; 80 FR 151, Jan. 5, 2015]

§ 429.8 Subpoena.

For purposes of carrying out parts 429, 430, and 431, the General Counsel (or delegee), may sign and issue subpoenas for the attendance and testimony of witnesses and the production of relevant books, records, papers, and other documents, and administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of contumacy by, or refusal to obey a subpoena served, upon any persons subject to parts 429, 430, or 431, the General Counsel (or delegee) may seek an order from the District Court of the United States for any District in which such person is found or resides or transacts business requiring such person to appear and give testimony, or to appear and produce documents. Failure to obey such order is punishable by such court as contempt thereof.

Subpart B—Certification

§ 429.10 Purpose and scope.

This subpart sets forth the procedures for manufacturers to certify that their covered products and covered

equipment comply with the applicable energy conservation standards.

§ 429.11 General sampling requirements for selecting units to be tested.

(a) When testing of covered products or covered equipment is required to comply with section 323(c) of the Act, or to comply with rules prescribed under sections 324, 325, 342, 344, 345 or 346 of the Act, a sample comprised of production units (or units representative of production units) of the basic model being tested must be selected at random and tested and must meet the criteria found in §§ 429.14 through 429.65. Components of similar design may be substituted without additional testing if the substitution does not affect energy or water consumption. Any represented values of measures of energy efficiency, water efficiency, energy consumption, or water consumption for all individual models represented by a given basic model must be the same, except for central air conditioners and central air conditioning heat pumps, as specified in § 429.16; and

(b) The minimum number of units tested shall be no less than two, except where:

(1) A different minimum limit is specified in §§ 429.14 through 429.65; or

(2) Only one unit of the basic model is produced, in which case, that unit must be tested and the test results must demonstrate that the basic model performs at or better than the applicable standard(s). If one or more units of the basic model are manufactured subsequently, compliance with the default sampling and representations provisions is required.

[87 FR 63646, Oct. 19, 2022]

§ 429.12 General requirements applicable to certification reports.

(a) *Certification.* Each manufacturer, before distributing in commerce any basic model of a covered product or covered equipment subject to an applicable energy conservation standard set forth in parts 430 or 431, and annually thereafter on or before the dates provided in paragraph (d) of this section, shall submit a certification report to DOE certifying that each basic model

meets the applicable energy conservation standard(s). The certification report(s) must be submitted to DOE in accordance with the submission procedures of paragraph (h) of this section.

(b) *Certification report.* A certification report shall include a compliance statement (see paragraph (c) of this section), and for each basic model, the information listed in this paragraph (b).

(1) Product or equipment type;

(2) Product or equipment class (as denoted in the provisions of part 430 or 431 of this chapter containing the applicable energy conservation standard);

(3) Manufacturer's name and address;

(4) Private labeler's name(s) and address(es) (if applicable);

(5) Brand name;

(6) For each brand, the basic model number and the manufacturer's individual model number(s) in that basic model with the following exceptions: For external power supplies that are certified based on design families, the design family model number and the individual manufacturer's model numbers covered by that design family must be submitted for each brand. For distribution transformers, the basic model number or kVA grouping model number (depending on the certification method) for each brand must be submitted. For commercial HVAC, WH, and refrigeration equipment, an individual manufacturer model number may be identified as a "private model number" if it meets the requirements of § 429.7(b).

(7) Whether the submission is for a new model, a discontinued model, a correction to a previously submitted model, data on a carryover model, or a model that has been found in violation of a voluntary industry certification program;

(8) The test sample size (*i.e.*, number of units tested for the basic model, or in the case of single-split system or single-package central air conditioners and central air conditioning heat pumps, or multi-split, multi-circuit, or multi-head mini-split systems other than the "tested combination," for each individual combination or individual model). Enter "0" if an AEDM was used in lieu of testing (and in the case of central air conditioners and

central air conditioning heat pumps, this must be indicated separately for each metric);

(9) The certifying party's U.S. Customs and Border Protection (CBP) importer identification numbers assigned by CBP pursuant to 19 CFR 24.5, if applicable;

(10) Whether certification is based upon any waiver of test procedure requirements under § 430.27 or § 431.401 of this chapter and the date(s) of such waiver(s);

(11) Whether certification is based upon any exception relief from an applicable energy conservation standard and the date such relief was issued by DOE's Office of Hearings and Appeals;

(12) If the test sample size is listed as "0" to indicate the certification is based upon the use of an alternate way of determining measures of energy conservation, identify the method used for determining measures of energy conservation (such as "AEDM," or linear interpolation). Manufacturers of commercial packaged boilers, commercial water heating equipment, commercial refrigeration equipment, commercial HVAC equipment, and central air conditioners and central air conditioning heat pumps must provide the manufacturer's designation (name or other identifier) of the AEDM used; and

(13) Product specific information listed in §§ 429.14 through 429.63 of this chapter.

(c) *Compliance statement.* The compliance statement required by paragraph (b) of this section shall include the date, the name of the company official signing the statement, and his or her signature, title, address, telephone number, and facsimile number and shall certify that:

(1) The basic model(s) complies with the applicable energy conservation standard(s);

(2) All required testing has been conducted in conformance with the applicable test requirements prescribed in parts 429, 430 and 431, as appropriate, or in accordance with the terms of an applicable test procedure waiver;

(3) All information reported in the certification report is true, accurate, and complete; and

(4) The manufacturer is aware of the penalties associated with violations of

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the Act, the regulations thereunder, and 18 U.S.C. 1001 which prohibits knowingly making false statements to the Federal Government.

(d) *Annual filing.* All data required by paragraphs (a) through (c) of this section shall be submitted to DOE annually, on or before the following dates:

TABLE 1 TO PARAGRAPH (d)

Product category	Deadline for data submission
Portable air conditioners	February 1.
Fluorescent lamp ballasts; Compact fluorescent lamps; General service fluorescent lamps, general service incandescent lamps, and incandescent reflector lamps; Candelabra base incandescent lamps and intermediate base incandescent lamps; Ceiling fans; Ceiling fan light kits; Showerheads; Faucets; Water closets; and Urinals.	March 1.
Water heaters; Consumer furnaces; Pool heaters; Commercial water heating equipment; Commercial packaged boilers; Commercial warm air furnaces; Commercial unit heaters; and Furnace fans.	May 1.
Dishwashers; Commercial pre-rinse spray valves; Illuminated exit signs; Traffic signal modules and pedestrian modules; and Distribution transformers.	June 1.
Room air conditioners; Central air conditioners and central air conditioning heat pumps; and Commercial heating, ventilating, air conditioning (HVAC) equipment.	July 1.
Consumer refrigerators, refrigerator-freezers, and freezers; Commercial refrigerators, freezers, and refrigerator-freezers; Automatic commercial ice makers; Refrigerated bottled or canned beverage vending machines; Walk-in coolers and walk-in freezers; and Consumer miscellaneous refrigeration products.	August 1.
Torchieres; Dehumidifiers; Metal halide lamp ballasts and fixtures; External power supplies; Pumps; and Battery chargers.	September 1.
Residential clothes washers; Residential clothes dryers; Direct heating equipment; Cooking products; and Commercial clothes washers.	October 1.

(e) *New model filing.* (1) In addition to the annual filing schedule in paragraph (d) of this section, any new basic models must be certified pursuant to paragraph (a) of this section before distribution in commerce. A modification to a model that increases the model's energy or water consumption or decreases its efficiency resulting in re-rating must be certified as a new basic model pursuant to paragraph (a) of this section.

(2) For distribution transformers, the manufacturer shall submit all information required in paragraphs (b) and (c) of this section for the new basic model, unless the manufacturer has previously submitted to the Department a certification report for a basic model of distribution transformer that is in the same kVA grouping as the new basic model.

(f) *Discontinued model filing.* When production of a basic model has ceased and it is no longer being sold or offered for sale by the manufacturer or private labeler, the manufacturer must report this discontinued status to DOE as part of the next annual certification report following such cessation. For each basic model, the report must include the information specified in paragraphs (b)(1) through (7) of this section, except

that for integrated light-emitting diode lamps and for compact fluorescent lamps, the manufacturer must submit a full certification report, including all of the information required by paragraph (b) of this section and the product-specific information required by § 429.56(b)(2) or § 429.35(b)(2), respectively.

(g) *Third party submitters.* A manufacturer may elect to use a third party to submit the certification report to DOE (for example, a trade association, independent test lab, or other authorized representative, including a private labeler acting as a third party submitter on behalf of a manufacturer); however, the manufacturer is responsible for submission of the certification report to DOE. DOE may refuse to accept certification reports from third party submitters who have failed to submit reports in accordance with the rules of this part. The third party submitter must complete the compliance statement as part of the certification report. Each manufacturer using a third party submitter must have an authorization form on file with DOE. The authorization form includes a compliance statement, specifies the third party authorized to submit certification reports

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on the manufacturer's behalf and provides the contact information and signature of a company official.

(h) *Method of submission.* Reports required by this section must be submitted to DOE electronically at <http://www.regulations.doe.gov/ccms> (CCMS). A manufacturer or third party submitter can find product-specific templates for each covered product or covered equipment with certification requirements online at <https://www.regulations.doe.gov/ccms/templates.html>. Manufacturers and third party submitters must submit a registration form, signed by an officer of the company, in order to obtain access to CCMS.

(i) *Compliance dates.* For any product subject to an applicable energy conservation standard for which the compliance date has not yet occurred, a certification report must be submitted not later than the compliance date for the applicable energy conservation standard. The covered products enumerated below are subject to the stated compliance dates for initial certification:

(1) Commercial warm air furnaces, packaged terminal air conditioners, and packaged terminal heat pumps, July 1, 2014;

(2) Commercial gas-fired and oil-fired instantaneous water heaters less than 10 gallons and commercial gas-fired and oil-fired hot water supply boilers less than 10 gallons, October 1, 2014;

(3) All other types of covered commercial water heaters except those specified in paragraph (i)(2) of this section, commercial packaged boilers with input capacities less than or equal to 2.5 million Btu/h, and self-contained commercial refrigeration equipment with solid or transparent doors, December 31, 2014;

(4) Variable refrigerant flow air conditioners and heat pumps, March 31, 2015;

(5) Small, large, or very large air-cooled, water-cooled, evaporatively-cooled, and water-source commercial air conditioning and heating equipment, single package vertical units, computer room air conditioners, commercial packaged boilers with input capacities greater than 2.5 million Btu/h, and all other types of commercial re-

frigeration equipment except those specified in paragraph (i)(3) of this section, July 1, 2015.

[76 FR 12451, Mar. 7, 2011; 76 FR 24762, May 2, 2011, as amended at 76 FR 38292, June 30, 2011; 76 FR 65365, Oct. 21, 2011; 77 FR 76830, Dec. 31, 2012; 78 FR 79593, Dec. 31, 2013; 79 FR 25500, May 5, 2014; 79 FR 38208, July 3, 2014; 81 FR 4430, Jan. 26, 2016; 81 FR 37049, June 8, 2016; 81 FR 43425, July 1, 2016; 81 FR 46789, July 18, 2016; 81 FR 59415, Aug. 29, 2016; 81 FR 95798, Dec. 28, 2016; 85 FR 1446, 1591, Jan. 10, 2020; 87 FR 43976, July 22, 2022; 87 FR 53637, Aug. 31, 2022]

EFFECTIVE DATE NOTE: At 87 FR 77317, Dec. 16, 2022, § 429.12 was amended by revising paragraph (b)(8), effective Jan. 17, 2023. For the convenience of the user, the revised text is set forth as follows:

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(b) * * *

(8) The test sample size as follows:

(i) The number of units tested for the basic model; or

(ii) In the case of single-split system or single-package central air conditioners and central air conditioning heat pumps; air-cooled, three-phase, small commercial package air conditioning and heating equipment with a cooling capacity of less than 65,000 Btu/h; air-cooled, three-phase, variable refrigerant flow multi-split air conditioners and heat pumps with a cooling capacity of less than 65,000 Btu/h; or multi-split, multi-circuit, or multi-head mini-split systems other than the “tested combination,” the number of units tested for each individual combination or individual model; or

(iii) If an AEDM was used in lieu of testing, enter “0” (and in the case of central air conditioners and central air conditioning heat pumps, this must be indicated separately for each metric);

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§ 429.13 Testing requirements.

(a) The determination that a basic model complies with an applicable energy conservation standard shall be determined from the values derived pursuant to the applicable testing and sampling requirements set forth in parts 429, 430 and 431. The determination that a basic model complies with the applicable design standard shall be based upon the incorporation of specific design requirements in parts 430