

This document, concerning the agency information collection extension, with changes is an action issued by the Department of Energy. Though it is not intended or expected, should any discrepancy occur between the document posted here and the document published in the Federal Register, the Federal Register publication controls. This document is being made available through the Internet solely as a means to facilitate the public's access to this document.

[6450-01-P]

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

EERE-2017-BT-CRT-0054

Agency Information Collection Extension, With Changes

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

ACTION: Submission for Office of Management and Budget review; comment request.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1995 (PRA), this notice announces that the U.S. Department of Energy (DOE) is forwarding an information collection request to the Office of Management and Budget (OMB) for review and comment. With this information collection request DOE intends to extend with changes for three years with the OMB, the Certification Reports, Compliance Statements, Application for a Test Procedure Waiver, and Recordkeeping for Consumer Products and Commercial/Industrial Equipment subject to Energy or Water Conservation Standards Package under OMB No. 1910-1400.

DATES: Written comments and information are requested and will be accepted on or before

[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL*

***REGISTER*]**. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the DOE Desk Officer at OMB of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at

202-395-4718 or contacted by email at *Chad_S_Whiteman@omb.eop.gov*.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395-6974;

And to:

Ashley Armstrong, 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) 586-6590. E-mail: *ApplianceStandardsQuestions@ee.doe.gov*.

FOR FURTHER INFORMATION CONTACT: Ashley Armstrong, 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) 586-6590. E-mail: *ApplianceStandardsQuestions@ee.doe.gov*.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501-3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), and 1320.12. On August 22, 2017, DOE

published a 60-day notice in the *Federal Register* soliciting comment on the information collection request for which it is now seeking OMB approval. See 82 FR 39780. DOE received eight comments in response to this notice, which are discussed in section I of this document.

I. Summary of Comments

DOE requested comments as to whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility. ASAP, ASE, ACEEE, NCLC, NEEP, NEEA, and NPCC¹ (hereafter referred to as ASAP *et al.*) submitted a joint comment in support the extension of information collection related to the appliance standards program. ASAP *et al.* emphasized that publicly-available certification data provides valuable information to consumers because it can help consumers make purchasing decisions. ASAP *et al.* further commented that DOE's compliance certification database provides easy-to-use information about all basic models that have been certified to DOE, which can help facilitate efficiency programs by providing reliable model-specific information. (ASAP *et al.*, No. 7 at pp. 1-2) ASAP *et al.* also supported DOE's collection of information related to applications for extensions regarding representations because these applications provide a mechanism to limit burden on manufacturers. (ASAP *et al.*, No. 7 at p. 3)

The California Investor Owned Utilities² (CA IOUs) fully supported the collection of appliance information in terms of utility and necessity, and are proponents of the proposed extension by three years.

¹ Appliance Standards Awareness Project (ASAP), Alliance to Save Energy, American Council for an Energy-Efficient Economy (ACEEE), National Consumer Law Center (NCLC), Natural Resources Defense Council (NRDC), Northeast Energy Efficiency Partnerships (NEEP), Northwest Energy Efficiency Alliance (NEEA), and Northwest Power and Conservation Council (NPCC)

² Pacific Gas and Electric Company (PG&E), Southern California Gas Company (SoCalGas), San Diego Gas and Electric (SDG&E), and Southern California Edison (SCE).

CA IOUs stated that the information collected by DOE is invaluable for standards development, energy efficiency programs, marketplace research, and other types of appliance-related analyses conducted by industry participants as well as consumers and consumer advocate groups. (CA IOUs, No. 8 at p. 2)

Lennox commented that consistent information collection and enforcement of DOE energy efficiency regulations are needed to maintain a level playing field in the market. Information reporting should strike a balance between providing sufficient information and excessive reporting burden. Lennox further stated that DOE should not eviscerate reporting and compliance provisions, as doing so would chill manufacturer investment in developing new and improved products. (Lennox, No. 9 at pp. 1-2)

Plumbing Manufacturers International (PMI) commented that the current reporting requirements are no longer needed for commercial pre-rinse spray valves, faucets, showerheads, urinals and water closets because water consumption requirements in line with Federal regulations are already addressed in industry standards and/or codes. (PMI, No. 2 at pg. 1) DOE notes that while industry standards may help ensure that plumbing products comply with Federal standards, industry standards are voluntary. DOE also notes that state building codes do not uniformly adopt the most recent industry standards. In addition to ensuring compliance with the Federal standards, DOE's certification database provides consumers with comprehensive, up-to-date efficiency information. Therefore, DOE does not agree that industry standards and state building codes negate the impact of certification.

NAFEM commented that the proposed requirements to submit certificates of admissibility to the U.S. Customs for each imported shipment is an incredible burden and redundant with other

reporting obligations. (NAFEM, No. 6 at p. 2) DOE appreciates NAFEM's comments, and notes that the proposal to which NAFEM was referring is part of an open rulemaking, has not been finalized, and is not part of this information collection. Any additional information collection burden that would be imposed under such a regulation, were one to be finalized, would be evaluated and addressed in the course of that rulemaking. For more information about DOE's rulemaking on import data collection see docket number: EERE-2015-BT-CE-0019.

DOE received several comments about the accuracy of DOE's estimates of the burden of the information collection activities. ALA, AHAM, HPBA, ITI, and NEMA (hereafter referred to as *ALA et al.*) jointly commented that on average the total annual certification burden is 358 hours per manufacturer. (*ALA et al.*, No. 5 at p. 2) In addition, NAFEM commented that its small business members report that CCMS-related testing and reporting cost a minimum between \$10,000 - \$15,000 for every product line. (NAFEM, No. 6 at p. 2)

In the August 2017 60-day notice, DOE estimated that annually respondents file 10 certification reports per year with an average burden of 30 hours per response resulting in an average of 300 burden hours per respondent. In response to comments received, DOE is increasing the certification burden to 35 hours per response, which better aligns with *ALA et al.*'s estimate of 358 hours per manufacturer.

DOE appreciates NAFEM's feedback on the cost for small businesses to test and certify their products. However, DOE wants to make clear that its certification requirements do not require manufacturers to test their basic models annually in order to submit a certification report. DOE only requires manufacturers to determine the basic model's representative efficiency or

energy consumption before distribution in U.S. commerce according to the product-specific provisions found in subpart B of 10 CFR part 429. For most products, these provisions require manufacturers to test at least two units per basic model according to the DOE test procedure, and DOE accounts for the burden associated with testing when adopting or amending a test procedure or energy conservation standard. NAFEM's estimated burden includes both the cost of testing and certification and did not break out the cost associated only with certification. For this reason DOE cannot compare NAFEM's estimate to its own.

ALA *et al.* commented that certification is primarily done by product/compliance/design engineers, but that additional staff involved in reporting activities include lab technicians, plant/product managers, data entry personnel, compliance officers, regulatory affairs staff, interns, general support staff, and assistants. In order to determine the total reporting and record keeping cost burden, DOE estimated a fully burdened labor rate³ of \$100/hr. In addition to consideration of an engineer's labor rate, the fully burdened labor rate also reflects the labor rates of the other staff as described by ALA *et al.*, as well as that of a staff attorney.

DOE also received comments suggesting ways to enhance the quality, utility, and clarity of the information being collected and suggestions to minimize the burden of information collection activities.

A number of comments focused on DOE's Compliance Certification Management System (CCMS). ASAP *et al.* and Lennox commented in support of DOE's electronic CCMS because it

³ A fully burdened labor rate includes the employee's salary, fringe benefits, health insurance, and administrative costs.

reduces reporting burdens and streamlines the certification process. (ASAP *et al.*, No. 7 at p. 3; Lennox No. 9 at p. 2)

However, Acuity opined that DOE uses the CCMS system to check that manufacturers have completed the requisite administrative tasks and that the system provides no value in validating a product's performance. Acuity asserted that DOE's enforcement efforts are focused entirely on entry mistakes, while ignoring manufacturers who do not report at all. Acuity further asserted that its prior complaints regarding manufacturers that do not comply with the certification reporting obligations have gone unaddressed. Acuity suggested DOE could establish a website or reporting mechanism, similar to the FTC's public claims filing system, which would allow manufacturers to report suspected nonreporting manufacturers to help facilitate enforcement against nonreporting entities. (Acuity, No. 3 at pp. 4-5)

The Office of the Assistant General Counsel for Enforcement reviews manufacturers' compliance with certification requirements to ensure that manufacturers provide information demonstrating compliance with DOE standards and regulations. In addition, this program investigates all complaints about potential noncompliance. DOE notes that it currently has a mechanism for the submission of complaints. Anyone wishing to make a complaint may send an email to energyefficiencyenforcement@hq.doe.gov or call 202-287-6997. Additional information about submitting complaints of non-compliance may be found on DOE's website at: <https://energy.gov/gc/action-center-office-general-counsel/report-appliance-regulation-violation>.

DOE also received suggestions to improve CCMS. Lennox commented that DOE should

publish certification record numbers on its public certification database to further streamline verification of product certification. (Lennox, No. 9 at pp. 2-3) Acuity commented that CCMS has an outdated data entry system, which requires manual input of numerous fields of information for hundreds of product models into a Microsoft Excel spreadsheet that cannot be edited or updated after filing. Acuity suggested the data entry system should be replaced with a dynamic web-based platform that would allow companies to enter and update—and DOE to analyze—real-time compliance data. In addition, Acuity commented that a web-based portal or similar construct could be secured by password/credential protection from both the manufacturer and DOE sides. (Acuity, No. 3, pp. 2-3 and p. 5) Traulsen commented that DOE should better align annual product certification deadlines with new template usage so that manufacturers are not required to certify multiple times. In addition, Traulsen suggested that DOE release a revision log noting changes made in certification templates to aid the entities completing the templates. (Traulsen, No. 4 at p. 1)

DOE appreciates the feedback from Lennox, Acuity, and Traulsen and will consider these comments going forward. In response to Acuity's comment, DOE emphasizes that it elected to use Microsoft Excel spreadsheet for certification templates because of its flexibility and because it is a widely adopted standard product across industries. The certification templates allow data to be entered manually, with copy-and-paste, or imported from another system. In addition, these Microsoft Excel templates allow manufacturers to work on it over time, save it locally, and have several people work on it without having to have an open user session in CCMS. Further, DOE's CCMS system is currently secured by password protection. All users are required to register with CCMS and establish usernames and passwords to access CCMS.

Interested parties also commented on aligning DOE's reporting requirements with other

entities. The CA IOUs commented in support of aligning the data collected for DOE and the California Energy Commission (CEC) because the reduction of duplicative reporting requirements helps avoid inconsistencies in data and benefits manufacturers serving the California marketplace by minimizing their compliance overhead. The CA IOUs urged DOE to work very closely with CEC to make sure their data and systems align. (CA IOUs, No. 8 at p. 2-3) Traulsen also supports DOE's consideration of revisions to the CCMS to facilitate a reduction in duplicative reporting under California's Appliance Efficiency Regulations. (Traulsen, No. 4 at p. 2) Lennox stated that DOE's CCMS system should be utilized as the central information repository to satisfy other regulatory or program requirements and DOE should work to utilize the existing data to satisfy CEC's reporting requirements. (Lennox, No. 9 at pp. 2-3) ALA *et al.* also commented that CCMS should be the central place for manufacturers to report data related to energy use. In addition to aligning reporting requirements with FTC, ALA *et al.* suggested that DOE could further streamline the database by adding a column to each template so that ENERGY STAR qualification can be indicated. ALA *et al.* also supported eliminating duplicative reporting requirements between California and DOE by ensuring that the information reported on CCMS can satisfy the CEC requirements. (ALA *et al.*, No. 5 at pp. 3-5) NAFEM suggested that the U.S. and Canada harmonize reporting requirements and templates because their programs and markets are similar. NAFEM stated that DOE should survey Canada, U.S. states and other agencies to identify additional information that should be included in the CCMS database so that CCMS is a one-stop location where manufacturers list their products. (NAFEM, No. 6 at p. 2)

PMI commented that Federal and state requirements should be reported separately, even though it could possibly eliminate duplicative reporting, as DOE should maintain its national

focus and let states manage themselves. PMI also questioned how DOE would address differences in reporting requirements and covered products. (PMI, No. 2 at p. 2)

Based on the comments received, DOE has incorporated the cost of reporting any additional fields to its certification templates, which would aid in facilitating a reduction in duplicative reporting under the California's Appliance Efficiency Regulations and the ENERGY STAR program. At this time, DOE will work with CEC and EPA on ways it could reduce duplicative reporting on a case-by-case basis. In response to PMI's concern about addressing differences in reporting requirements, DOE would simply add additional fields to its certification templates to account for any additional information needed for reporting to CEC or ENERGY STAR. Submission of the additional information would not be mandatory for the purpose of complying with DOE's Federal requirements.

ALA *et al.* commented that DOE should reevaluate its annual certification requirements and that manufacturers should be required to report only when a new product is introduced, when a model is changed in a way that impacts measured energy or efficiency, and when a product is no longer in production. ALA *et al.* opined that annual reporting does nothing to enhance consumer knowledge and serves no purpose for DOE rulemaking or enforcement efforts. ALA *et al.* estimated that removing annual reporting requirements would reduce the annual reporting burden on average by 126.6 hours per manufacturer. In addition, ALA *et al.* commented that DOE should limit the data reporting to only information that is essential to show compliance with the standards. (ALA *et al.*, No. 5 at pp. 2-4) Acuity commented that annual reporting adds unnecessary costs for manufacturers. Acuity also stated that DOE uses valuable enforcement resources reviewing vast amounts of repetitive data. Acuity recommended DOE eliminate the

annual reporting requirement when products and information have not changed from the previous report. Instead, Acuity suggested that annual reporting be replaced with an annual certification requirement from reporting companies that their information is correct and up-to-date or, alternatively, allow for certification of only updated information. (Acuity, No. 3 at pp. 1, 3 and 5)

ASAP *et al.* stated that the requirement to submit certification reports annually provides DOE with up-to-date information about regulated products available for sale. ASAP *et al.* commented that the submission of certification and compliance reports along with records retention is essential for DOE to conduct effective enforcement and that effective enforcement protects manufacturers who are complying with the law from unscrupulous competitors and ensures products purchased by consumers deliver the required levels of efficiency and, in turn, utility bill savings. (ASAP *et al.*, No. 7 at pp. 1-2)

DOE is not considering amending its regulations as part of this notice; however, it will consider these comments in any future rulemakings that address certification requirements.

ALA *et al.* commented DOE should commit to issuing related CCMS templates no later than one year before the compliance date of the standard or test procedure. (ALA *et al.*, No. 5 at pp. 4) NAFEM and Acuity commented that at times DOE does not provide certification templates in a timely manner. (NAFEM, No. 6 at p. 2; Acuity, No. 3 at p. 3) NAFEM added that templates should be provided more than three months before a certification deadline. (NAFEM, No. 6 at p. 2) DOE appreciates the feedback from ALA *et al.*, NAFEM, and Acuity. DOE strives to make certification templates available in a timely manner and will work to post new or revised

templates well in advance of certification deadlines to address concerns of the commenters.

Lennox commented that DOE should employ negotiated or working group consensus approaches as an integral part of the DOE rulemakings unless there is not a reasonable likelihood that the requisite consensus can be reached. Certification and information reporting requirements should be included in this process. (Lennox, No. 9 at p. 2) DOE appreciates Lennox's comment and will take it under consideration for future rulemakings.

DOE also received comments on its test procedure waiver process. *ASAP et al.* commented that the test procedure waiver process helps to ensure that manufacturers can continue to introduce products with new features, even when those features may not have been contemplated at the time the test procedure was established. (*ASAP et al.*, No. 7 at pp. 2) NAFEM commented that DOE's current test procedure waiver process is burdensome, lengthy, costly, and an inhibitor to innovation and small business. NAFEM stated that the test waiver process needs to be streamlined to allow the manufacturers and DOE to be more flexible and responsive, thus allowing continued product development and innovation of products that further energy efficiency. (NAFEM, No. 6 at p. 2-3) Acuity suggested that DOE should allow waiver applications from trade associations or similar industry groups because this would streamline the application process and allow manufacturers to pool compliance resources, while saving DOE time and expense in reviewing repetitive company applications. In addition, Acuity urged DOE to approve or deny test procedure waivers in a timely manner. (Acuity, No. 3 at p. 5) Traulsen suggested that an interim waiver should be considered granted if the applicant does not receive a response from DOE within 30 business days. In addition, Traulsen suggested an amendment to the waiver process that if public comment or rebuttal is not submitted to DOE within the allotted

comment period after an interim waiver is granted, then a final determination on the waiver can be expected within three months of issuance of the interim waiver. Traulsen asserted that the time lost during a waiver's review delays the product from being available to the market, resulting in lost opportunity. (Traulsen, No. 4 at p. 2) While DOE is not considering amending its regulations, including those for the waiver process, as part of this notice, it will consider these comments in any future rulemakings that address certification or other regulatory requirements.

Acuity also commented that there is a lack of guidance and compliance resources from DOE regarding compliance expectations and interpretations, particularly when regulations are, in Acuity's opinion, ambiguous or conflicting. (Acuity, No. 3 at pp. 1, 3-4, 5) DOE appreciates Acuity's comment and notes that it has a mechanism in place for manufacturers to seek guidance. DOE posts guidance and frequently asked questions on its website at: <https://www1.eere.energy.gov/guidance/default.aspx?pid=2&spid=1>. DOE encourages manufacturers and other entities with questions to email questions to EERE_ACES@ee.doe.gov or submit questions via the online form on the aforementioned webpage.

II. Information Collection Request and Expected Burden

The summaries below describe the information collection request and its expected burden. DOE is submitting this renewal request for clearance by OMB, as the PRA requires.

Comments are invited on the following information collection request regarding: (1) Whether the information collection activities are necessary for DOE to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of DOE's

estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for DOE to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

This information collection request contains:

- (1) OMB No. 1910-1400;
- (2) Information Collection Request Title: Certification Reports, Compliance Statements, Application for a Test Procedure Waiver, Application for Extension of Representation Requirements, Labeling, and Recordkeeping for Consumer Products and Commercial/Industrial Equipment subject to Federal Energy or Water Conservation Standards;
- (3) Type of Request: Renewal with changes;
- (4) Purpose:

Pursuant to the Energy Policy and Conservation Act of 1975 (“EPCA” or “the Act”),⁴ Public Law 94-163 (42 U.S.C. 6291–6317, as codified), DOE regulates the energy efficiency of a number of consumer products, and commercial and industrial equipment. Title III, Part B⁵ of

⁴ All references to EPCA in this document refer to the statute as amended through the Energy Efficiency Improvement Act of 2015 (EEIA 2015), Public Law 114–11 (April 30, 2015).

⁵ For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency of covered consumer products (“covered products”). Title III, Part C⁶ of EPCA, added by Public Law 95-619, Title IV, §441(a), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency of covered commercial and industrial equipment (collectively referred to as “covered equipment”).

Covered products and covered equipment are described in 10 CFR parts 429, 430, and 431. These covered products and covered equipment, including all product or equipment classes, include: (1) Consumer refrigerators, refrigerator-freezers and freezers; (2) Room air conditioners; (3) Central air conditioners and central air conditioning heat pumps; (4) Consumer water heaters; (5) Consumer furnaces and boilers; (6) Dishwashers; (7) Residential clothes washers; (8) Clothes dryers; (9) Direct heating equipment; (10) Cooking products; (11) Pool heaters; (12) Television sets; (13) Fluorescent lamp ballasts; (14) General service fluorescent lamps, general service incandescent lamps, and incandescent reflector lamps; (15) Faucets; (16) Showerheads; (17) Water closets; (18) Urinals; (19) Ceiling fans; (20) Ceiling fan light kits; (21) Torchieres; (22) Compact fluorescent lamps; (23) Dehumidifiers; (24) External power supplies; (25) Battery chargers; (26) Candelabra base incandescent lamps and intermediate base incandescent lamps; (27) Commercial warm air furnaces; (28) Commercial refrigerators, freezers, and refrigerator-freezers; (29) Commercial heating and air conditioning equipment; (30) Commercial water heating equipment; (31) Automatic commercial ice makers; (32) Commercial clothes washers; (33) Distribution transformers; (34) Illuminated exit signs; (35)

⁶ For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A-1

Traffic signal modules and pedestrian modules; (36) Commercial unit heaters; (37) Commercial pre-rinse spray valves; (38) Refrigerated bottled or canned beverage vending machines; (39) Walk-in coolers and walk-in freezers and certain components; (40) Metal halide lamp ballasts and fixtures (41) Integrated light-emitting diode lamps; (42) General service lamps; (43) Furnace fans; (44) Pumps; (45) Commercial packaged boilers; (46) Consumer miscellaneous refrigeration equipment; (47) Portable air conditioners; (48) Compressors; (49) Electric motors, and (50) Small electric motors.

Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. For consumer products, relevant provisions of the Act specifically include definitions (42 U.S.C. 6291), energy conservation standards (42 U.S.C. 6295), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), and the authority to require information and reports from manufacturers (42 U.S.C. 6296). For covered equipment, relevant provisions of the Act include definitions (42 U.S.C. 6311), energy conservation standards (42 U.S.C. 6313), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), and the authority to require information and reports from manufacturers (42 U.S.C. 6316). DOE is seeking to renew its information collection related to the following aspects of the appliance standards program: (1) gathering data and submittal of certification and compliance reports for each basic model distributed in commerce in the U.S. including supplemental testing instructions for certain commercial equipment; (2) maintaining records underlying the certified ratings for each basic model including test data and the associated calculations; (3) applications for a test procedure waiver, which manufacturers may elect to submit if they manufacture a basic model that cannot be tested pursuant to the DOE test procedure; (4) applications requesting an

extension of the date by which representations must be made in accordance with any new or amended DOE test procedure; and (5) labeling.

DOE's certification and compliance activities ensure accurate and comprehensive information about the energy and water use characteristics of covered products and covered equipment sold in the United States. Manufacturers of all covered products and covered equipment must submit a certification report before a basic model is distributed in commerce, annually thereafter, and if the basic model is redesigned in such a manner to increase the consumption or decrease the efficiency of the basic model such that the certified rating is no longer supported by the test data. Additionally, manufacturers must report when production of a basic model has ceased and is no longer offered for sale as part of the next annual certification report following such cessation. DOE requires the manufacturer of any covered product or covered equipment to establish, maintain, and retain the records of certification reports, of the underlying test data for all certification testing, and of any other testing conducted to satisfy the requirements of 10 CFR part 429, part 430, and/or part 431. Certification reports provide DOE and consumers with comprehensive, up-to-date efficiency information and support effective enforcement.

As the result of a negotiated rulemaking, DOE adopted additional certification requirements for commercial HVAC, water heater, and refrigeration equipment. Specifically, DOE requires manufacturers of commercial refrigeration equipment and some types of commercial HVAC equipment to submit a PDF with specific testing instructions to be used by the Department during verification and enforcement testing. Manufacturers of commercial water heating equipment and some types of commercial HVAC equipment have the option of submitting a PDF with additional testing instructions at the manufacturer's discretion. For

additional information on the negotiated rulemaking or supplemental testing instructions see docket number EERE-2013-BT-NOC-0023.

On December 18, 2014, Congress enacted the EPS Service Parts Act of 2014 (Public Law 113-263, “Service Parts Act”). That law exempted manufacturers of certain external power supplies (“EPSs”) that were made available as service and spare parts for end-use products manufactured before February 10, 2016, from the energy conservation standards that DOE promulgated in its February 2014 rule. See 79 FR 7846 (Feb. 10, 2014). Additionally, the Service Parts Act permits DOE to require manufacturers of an EPS that is exempt from the 2016 standards to report to DOE the total number of such EPS units that are shipped annually as service and spare parts and that do not meet those standards. (42 U.S.C. 6295(u)(5)(A)(ii)) DOE may also limit the applicability of the exemption if the Secretary determines that the exemption is resulting in a significant reduction of the energy savings that would result in the absence of the exemption. (42 U.S.C. 6295(u)(5)(A)(iii)) In a final rule published on May 16, 2016, DOE adopted reporting requirements for EPS manufacturers to provide the total number of exempt EPS units sold as service and spare parts for which the manufacturer is claiming exemption from the current standards. 81 FR 30157.

DOE currently requires manufacturers or their party representatives to prepare and submit certification reports and compliance statements using DOE’s electronic Web-based tool, the Compliance and Certification Management System (CCMS), which is the primary mechanism for submitting certification reports to DOE. CCMS currently has product and equipment specific templates which manufacturers are required to use when submitting certification data to DOE. DOE believes the availability of electronic filing through the CCMS system reduces reporting burdens, streamlines the process, and provides the Department with needed information in a

standardized, more accessible form. This electronic filing system also ensures that records are recorded in a permanent, systematic way.

Manufacturers also may rely on CCMS reporting to satisfy certain reporting requirements established by the Federal Trade Commission (“FTC”). EPCA directs the FTC generally to prescribe labeling rules for the consumer products subject to energy conservation standards under EPCA. (42 U.S.C. 6296) The required labels generally must disclose the estimated annual operating cost of such product (determined in accordance with Federal test procedures); and information respecting the range of estimated annual operating costs for covered products to which the rule applies. (42 U.S.C. 6296(c)(1)) Pursuant to EPCA, the FTC prescribed the Energy Labeling Rule, which in part, requires manufacturers to attach yellow EnergyGuide labels to many of the covered consumer products. See 16 CFR part 305. EnergyGuide labels for most products subject to the FTC labeling requirement contain three key disclosures: estimated annual energy cost (16 CFR 305.5); a product’s energy consumption or energy efficiency rating as determined from DOE test procedures (*Id.*); and a comparability range displaying the highest and lowest energy costs or efficiency ratings for all similar models (16 CFR 305.10).

The Energy Labeling Rule also contains reporting requirements for most products, under which manufacturers must submit data to the FTC both when they begin manufacturing new models and on an annual basis thereafter. 16 CFR 305.8. These reports must contain, among other things, estimated annual energy consumption or energy efficiency ratings, similar to what is required under DOE’s reporting requirement. *Id.* Prior to 2013, FTC collected energy data on products subject to the Energy Labeling Rule separate from DOE through paper and email submissions to the FTC. This arrangement required manufacturers to submit nearly duplicative reports to DOE and FTC.

However, in 2013 the FTC streamlined and harmonized its reporting requirements by giving manufacturers the option to report FTC-required data through DOE's CCMS, in lieu of the traditional practice of submitting directly to FTC. 78 FR 2200 (Jan. 10, 2013); 16 CFR 305.8(a)(1). As such, the CCMS reduces duplicative reporting for manufacturers of covered consumer products that are also required to report under the FTC Energy Label Rule.

DOE allows manufacturers of both consumer products and/or commercial equipment to apply for a test procedure waiver. A manufacturer may submit an application for a test procedure waiver at its discretion if the basic model for which the petition for waiver was submitted contains one or more design characteristics that prevents testing of the basic model according to the prescribed test procedures, or if the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. The Department currently uses and will continue to use the information submitted in the application for a waiver as the basis for granting or denying the petition. See 10 CFR 430.27 for additional information on petitions for waivers and for consumer products. See 10 CFR 431.401 for additional information on petitions for waivers for commercial equipment.

DOE also allows manufacturers of both consumer products and/or commercial equipment to submit applications requesting an extension of the date by which representations must be made in accordance with any new or amended DOE test procedure. DOE may grant extensions of up to 180 days if it determines that making such representations would impose an undue hardship on the petitioner. The Department currently uses and will continue to use the information submitted in these applications as the basis for granting or denying the petition.

In addition to the FTC labeling requirements for consumer products discussed, EPCA

directs DOE to establish labeling requirements for covered industrial and commercial equipment when specified criteria is met. If the Department has prescribed test procedures for any class of covered equipment, a labeling rule applicable to such class of covered equipment must be prescribed. (42 U.S.C. 6315(a)) EPCA, however, requires that certain criteria must be met prior to DOE prescribing a given labeling rule. Specifically, DOE must determine that: (1) labeling is technologically and economically feasible with respect to any particular equipment class; (2) significant energy savings will likely result from such labeling; and (3) labeling is likely to assist consumers in making purchasing decisions. (42 U.S.C. 6315(h)) DOE has established labeling requirements under the authority in 42 U.S.C. 6315 for electric motors (10 CFR 431.31), walk-in coolers and freezers (10 CFR 431.305), and pumps (10 CFR 431.466).

(5) Proposed changes to the information collection, including description of additional information that would be collected.

No changes are being made to the information collection instrument at this time; any such changes would be made through a rulemaking to amend the applicable regulations. DOE accounted for the reporting that would be needed in order to facilitate a reduction in duplicative reporting under the California's Appliance Efficiency Regulations and the ENERGY STAR program, similar to what was achieved with the FTC. Under its Appliance Efficiency Regulations, California requires manufacturers to certify and report to the CEC energy efficiency data of certain consumer products. See California Code of Regulations (CCR), Title 20, section 1606. For consumer products that are reported to the California Energy Commission and are subject to Federal test procedures, the California regulations generally require submission of data from those Federal test procedures (i.e., the same data reported to DOE).

While DOE continues to explore this pathway on a case-by-case basis with the other agencies or States involved, DOE would just add fields to the CCMS that would allow the California Energy Commission to accept a CCMS report in satisfaction of the state reporting requirement. Submission of the additional information would not be mandatory (from DOE's perspective) and would consist of information that manufacturers are already submitting to the California Energy Commission. Should the California Energy Commission choose to streamline and harmonize its reporting requirements by giving manufacturers the option to report California-required data through DOE's CCMS, use of CCMS would reduce duplicative reporting between the California and DOE requirements. In addition, the Environmental Protection Agency (EPA) currently requires ENERGY STAR program participants to send information about the energy-efficiency characteristics of those models participating in the ENERGY STAR program. Should DOE and EPA decide that a single submittal system could satisfy DOE's regulatory requirements and EPA's voluntary ENERGY STAR reporting requirements, then DOE would add minimal additional fields to CCMS and collect them from certifiers in order to reduce overall burden. DOE believes its estimates in this information collection account for the burden associated with these two potential harmonization efforts, which would result in a reduction in cost for the scheme in place today.

(6) Annual Estimated Number of Respondents: 2000;

(7) Annual Estimated Number of Total Responses: 20,000;

(8) Annual Estimated Number of Burden Hours: 775,000 (35 hours per certification, including the time for reviewing instructions, searching existing data sources, gathering and maintaining

the data needed, and completing and reviewing the collection of information; 16 additional hours for creating supplement testing instructions for commercial HVAC, water heating, and refrigeration equipment manufacturers; 160 hours for test procedure waiver preparation; 160 hours for representation extension request preparation; 1 hour for creating and applying a label for walk-in cooler and freezer, commercial and industrial pump, and electric motor manufacturers);

(9) Annual Estimated Reporting and Recordkeeping Cost Burden: \$77,500,000.

Authority:

Section 326(d) of the Energy Policy and Conservation Act, Public Law 94-163, as amended (42 U.S.C. 6296); 10 CFR Parts 429, 430, and 431.

Issued in Washington, DC, on November 28, 2017.

A handwritten signature in black ink, appearing to read 'K. Hogan', is written over a horizontal line.

Kathleen Hogan
Deputy Assistant Secretary for Energy Efficiency
Energy Efficiency and Renewable Energy