

Supporting Statement
Compliance Statement: Energy or Water Conservation Standards for Appliances
OMB Control Number 1910-1400

This supporting statement provides additional information regarding the Department of Energy (DOE) request for processing of the proposed information collection, (Insert Title of Information Collection Request). The numbered questions correspond to the order shown on the Office of Management and Budget (OMB) Form 83-I, “Instructions for Completing OMB Form 83-I.”

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the information collection.**

The Energy Policy and Conservation Act (EPCA) P.L. 94–163, as amended, establishes definitions, test procedures, labeling provisions, energy efficiency standards, and compliance certification requirements certain consumer appliance products and commercial equipment. Further, EPCA directs the Secretary of Energy to prescribe reporting and recordkeeping rules for the covered products. The authority for compliance certification reporting is section 326(d) and 345(a) of EPCA which states:

“For purposes of carrying out this part, the Secretary may require, under this part or other provision of law administered by the Secretary, each manufacturer of a covered product to submit information or reports to the Secretary with respect to energy efficiency, energy use, or, in the case of showerheads, faucets, water closets, and urinals, water use of such covered product ... to ensure compliance with the requirements of this part.” (42 U.S.C. 6296(d) and 42 U.S.C. 6316(a))

As part of the notice of proposed rulemaking (NPR), DOE is proposing new part 429, which will consolidate all of the certification, compliance, and enforcement provisions for consumer products and commercial equipment into one section. Proposed Subpart C to 10 CFR Part 429 describes DOE’s certification process and the certification requirements applicable to each product. It is under this authority that DOE is collecting information on the energy and water efficiency of consumer products and commercial equipment manufactured for distribution in commerce in the United States.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection**

This is an extension and revision of an existing collection (Control #1910-1400, Compliance Statement Energy/Water Conservation Standards for Appliances). This information is used by DOE for the purposes of verifying that manufacturers are in compliance with the Federal

standards established in 10 CFR Parts 430.32, 431.25, 431.66, 431.77, 431.87, 431.97, 431.110, 431.136, 431.156, 431.196, 431.206, 431.226, 431.246, 431.266, 431.296, 431.306, 431.326, and 431.446. Further, DOE will use the information collected to systematically enforce applicable energy and water conservation standards for covered products and commercial and industrial equipment and provide for more accurate, comprehensive information about the energy and water use characteristics of products sold in the United States.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

DOE is in a transition mode to electronic filings through the agency-wide “E-Gov” initiative. DOE is proposing that manufacturers and their party representatives prepare and submit certification reports using DOE’s electronic Web-based tool, the Compliance and Certification Management System (CCMS), which upon adoption will be the only mechanism for submitting certification reports to DOE. The CCMS currently has sample templates for certain covered products available for manufacturers to use when submitting certification data to DOE. See <http://www.regulations.doe.gov/ccms>. DOE plans to have these sample templates for all products subject to information collection requirements when it issues the final rule for this rulemaking. DOE believes the availability of electronic filing through the CCMS system should reduce reporting burdens, streamline the process, and provide the Department with needed information in a standardized, more accessible form. This electronic filing system will also ensure that records are recorded in a permanent, systematic way.

4. Describe efforts to identify duplication.

In specific cases, some of the energy efficiency, energy use, or water use information required to fulfill the certification requirements under DOE’s regulations can be obtained from other publically available product directories such as the Air-Conditioning, Heating, and Refrigeration Institute directory of certified products, the International Association of Plumbing and Mechanical Officials product listing directory, the ENERGY STAR product listing, and the California Energy Commission’s appliance efficiency database. Such programs certify that covered equipment has been tested either independently or by a manufacturer’s testing laboratory to certify a manufacturer’s performance claims are accurate. To a certain extent, DOE relies on such voluntary programs for compliance certification information to avoid duplication of effort and undue reporting burden. For example, the manufacturer can use the same test results for a given product assuming the testing was done in accordance to DOE’s testing and sampling procedures. However, DOE cannot ensure the information maintained in other publically available databases has been collected in accordance with DOE’s testing procedures, sampling plans for certification testing, and certification requirements. There is not a comprehensive alternative database that contains all of the information for all covered products and covered equipment required by DOE’s certification program that DOE could use to satisfy these provisions. Instead, DOE encourages manufacturers to utilize, to the extent the information required for both programs is duplicative, the same testing information. Further, DOE understands that manufacturers already maintain these types of records as a practical matter in the normal course of design, engineering, and performance testing a product.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

DOE performed an initial regulatory flexibility analysis to estimate the potential impact of small businesses as a result of the proposed rule. To minimize the impact that certification filings may have on manufacturers, DOE has introduced the online CCMS system through which manufacturers would be required to submit their products for certification. In addition, DOE is making available CCMS templates for each product, which clearly lay out the certification requirements for each covered product and equipment type.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If a manufacturer does not comply with the reporting requirements in 10 CFR Parts 430.32, 431.25, 431.66, 431.77, 431.87, 431.97, 431.110, 431.136, 431.156, 431.196, 431.206, 431.226, 431.246, 431.266, 431.296, 431.306, 431.326, and 431.446, there is a risk that a consumer product or commercial equipment would be sold into the market with an energy or water efficiency below the required Federal levels. This would have two negative effects: (1) it would distort the market by rewarding a company that is in violation because its products would be more cost-competitive than a company that is in compliance; and (2) it would prevent the nation from benefiting from cost-effective energy savings with each non-compliant unit sold.

DOE is not aware of any technological or legal obstacles to reducing burden. DOE understands that manufacturers of consumer products and commercial equipment routinely test their products, as energy efficiency and water savings are key marketing materials for purchasers.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines. (a) requiring respondents to report information to the agency more often than quarterly; (b) requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; (c) requiring respondents to submit more than an original and two copies of any document; (d) requiring respondents to retain records, other than health, medical government contract, grant-in-aid, or tax records, for more than three years; (e) in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study; (f) requiring the use of statistical data classification that has not been reviewed and approved by OMB; (g) that includes a pledge of confidentiality that is not supported by authority established in stature of regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; (h) requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

Of the special circumstances listed above, the only one that might apply is requiring respondents to “retain records ... for more than three years.” The proposed rule requires the manufacturer of any covered product or covered equipment to establish, maintain, and retain the records of certification reports, and of the underlying test data for all certification testing, and of any other testing conducted to satisfy the requirements of parts 429, 430, and 431. The proposed requirements specify that these records shall be organized and indexed in a fashion that makes them readily accessible for review by DOE upon request and that these records shall be retained by the manufacturer (or private labeler) for a period of two years from the date that production of the applicable model has ceased. Notwithstanding the information collection requirements, DOE understands that such records of testing and performance are routinely maintained and retained by a manufacturer as common engineering practice.

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency’s notice, required by 5CFR 320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken in response to the comments. Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside DOE to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or report.**

This proposed collection of information is submitted to OMB for approval pursuant to the process set forth in 5 CFR § 1320.11, which applies to the clearance of collections of information in proposed rules.

- 9. Explain any decision to provide any payment or gift to respondents, other than reenumeration of contractors or grantees.**

There is no payment or gift to any respondents. Respondents are required to comply by regulation.

- 10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

Matters of confidentiality are addressed under proposed 10 CFR parts 429.29 and 429.71, Public records and Confidentiality. Pursuant to the provisions of 10 CFR 1004.11, any person submitting information or data which the person believes to be confidential and exempt by law from public disclosure should submit one complete copy, and one copy from which the information believed to be confidential has been deleted. In accordance with the procedures established in 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure; however, the following records and other material of DOE are not exempt from public disclosure:

- (1) Reports of compliance filed pursuant to the rules in this part or pursuant to a provision in a DOE order; and

(2) Product-specific information testing data submitted by manufacturers to DOE pursuant to the § 429.19(b)(13) certification requirements of this part, including the manufacturer's name, the brand name, and applicable model number(s).

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why DOE considers the questions necessary, the specific uses to be made of the information., the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature in this collection of information.

12. Provide estimates of the hour burden of the collection of information. The statement should indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, DOE should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample fewer than 10 potential respondents is desirable.

DOE is proposing to require manufacturers of covered consumer products and commercial and industrial equipment to maintain records about how they determined the energy efficiency, energy consumption, water consumption or design features of their products. DOE is also proposing to require manufacturers to submit a certification report indicating that all basic models currently produced comply with the applicable standards using DOE's testing procedures, as well as include the necessary product specific certification data. The certification reports are submitted for each basic model, either when the requirements go into effect (for models already in distribution), or when the manufacturer begins distribution of a particular basic model, and annually thereafter. Reports must be updated when a new model is introduced or a change affecting energy efficiency or use is made to an existing model. In addition, the reports must be submitted annually.

There are an estimated 2,916 respondents who will be required to respond to this collection of information for all covered products and equipment. At the very least, the respondents will submit annually. DOE estimated that it will take each respondent approximately 20 hours total per company per year to comply with the proposed certification requirements based on 15 hours of technician/technical work and 5 hours clerical work.

Use table below to provide burden hour balances:

Total number of unduplicated respondents: 2,916
Reports filed per person: 1
Total annual responses: 2,916
Total annual burden hours: 58,320

Average Burden Per Collection: 20 hours
 Per Applicants: 20 hours

DOE estimates the total annual reporting and recordkeeping burden imposed on manufacturers of all consumer products and commercial and industrial equipment will be \$4,374,000. These estimates take into account the time necessary to develop testing documentation, complete the certification, and submit all required documents to DOE electronically.

13. Provide an estimate for the total annual cost burden to respondents or recordkeepers resulting from the collection of information.

There is no additional estimated cost besides the hourly estimates made in #12.

14. Provide estimates of annualized cost to the Federal government.

DOE estimates the total additional annual reporting and recordkeeping burden imposed on the Federal government will be \$0.00. DOE is already using the on-line collection system as one method for submission for certain consumer products.

15. Explain the reasons for any program changes or adjustments reported in Items 13 (or 14) of OMB Form 83-I.

Program Change: DOE is proposing revisions to its certification, compliance, and enforcement provisions in this notice of proposed rulemaking. This proposed rule is renewing and combining DOE's existing information collection approval for certain types of consumer products, electric motors, and distribution transformers. In addition, this proposed rule is proposing new information collection for all other covered products and covered equipment under DOE's programs. These proposals will allow DOE to systematically enforce applicable energy and water conservation standards for covered products and commercial and industrial equipment and provide more accurate, comprehensive information about the energy and water use characteristics of products sold in the U.S.

16. For collections whose results will be published, outline the plans for tabulation and publication.

This data will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

DOE is not seeking to remove the OMB expiration date.

18. Explain each exception to the certification statement identified in Item 19 of OMB Form 83-I.

There are no exceptions.