

General Instructions

A Supporting Statement must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below. **If an item is not applicable, provide a brief explanation.** When Item 17 of the OMB 83-I is checked “**YES**”, Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Instructions for the Supporting Statement

Each request for OMB approval of an information collection must include a Supporting Statement. Following is a template to be used for the Supporting Statement. Each item must be addressed. In response to statistical methods, provide a statement indicating that the information collection does not employ statistical methods. If statistical methods are used, contact EIA.

To use the template, replace the “*italics verbiage*” with the appropriate response.

United States Department of Energy
Supporting Statement
OMB Control Number 1910-xxxx
“Energy Conservation Program: Certification and Enforcement – Import Data”

This supporting statement provides additional information regarding the Department of Energy (DOE) request for processing of the information collection, Energy Conservation Program: Certification and Enforcement – Import Data. 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.**

Title III of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6291, et seq.; “EPCA” or, in context, “the Act”) sets forth a variety of provisions designed to improve energy efficiency. (All references to EPCA refer to the statute as amended through the Energy Efficiency Improvement Act (EISA) of 2015, Pub. L. 114-11(April 30, 2015).) Part B of title III, which was codified as Part A upon incorporation into the U.S. Code (42 U.S.C. 6291–6309) for editorial reasons, establishes the “Energy Conservation Program for Consumer Products Other Than Automobiles.” Part C of title III, which was codified as Part A-1 upon incorporation into the U.S. Code (42 U.S.C. 6311-6317) for editorial reasons, establishes an energy conservation program for “Certain Industrial Equipment.”

The Act provides the Department of Energy (DOE) authority to enforce any violations of section 6302(a)(5), including EPCA’s prohibition on the importation of covered products and equipment that do not conform to applicable energy conservation standards. (42 U.S.C. 6302(a)(5), 6303, 6316(a),(b)). Section 6302(a)(5) states that it is unlawful for any “manufacturer” to “distribute in commerce” products that do not conform to applicable energy conservation standards. Section 6291 defines the term “manufacturers” so as to include importers, and states that “to distribute in commerce” means, among other things, “to import.” (42 U.S.C. 6291(10), (12), (16)).

EPCA further provides that any covered product or equipment “offered for importation in violation of section 6302 of this title shall be refused admission into the customs territory of the United States under rules issued by the Secretary of the Treasury,” except under certain terms and conditions authorized under those rules. Under the regulations issued by the Department of Treasury and the U.S. Customs and Border Protection (CBP), if the DOE or the Federal Trade Commission “notifies CBP that a covered import does not comply with an applicable energy conservation or energy labeling standard, CBP will refuse admission to the covered import, or

pursuant to paragraph (d) of this section, CBP may allow conditional release of the covered import so that it may be brought into compliance.” (19 CFR 12.50(b))

In addition, EPCA authorizes the Secretary of Energy to require importers of covered products and equipment “to submit information or reports to the Secretary” with respect to energy efficiency, energy use, or water use of covered products and equipment “as the Secretary determines may be necessary . . . to insure compliance with the requirements of this part” and, more generally, “issue such rules as [he] deems necessary to carry out the provisions of this part.” (42 U.S.C. 6296(d), 6298)

In its current form, 10 CFR 429.5 requires that persons importing covered products or covered equipment comply with the provisions of 10 CFR Parts 429, 430, and 431. Part 429 requires, among other things, that manufacturers (including importers) submit a certification report to DOE prior to distributing their products in U.S. commerce. The certification report must provide specific information for each basic model, including the product or equipment type, the brand name, and the basic model number. (10 CFR 429.12(b))

In this ICR, DOE is requesting authorization to collect information associated with products or equipment subject to DOE regulations submitted via the “single window” provided by the International Trade Data System (ITDS). The information would be collected via a certification of admissibility submitted through CBP’s Automated Commercial Environment (see OMB Control Number 1651-0024), prior to the entry of products or equipment into the U.S.

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 information collection will ensure that DOE is aware of all covered products and equipment subject to energy conservation standards that are imported into the United States. This information will allow DOE to notify CBP if an importer is attempting to import a covered product or equipment that DOE has determined fails to meet the applicable energy conservation standard. Requiring importers to state whether the covered product or equipment being imported has been certified to DOE would allow DOE to identify importers that have not complied with these requirements, including potentially the failure to test and/or the failure to ensure that the product or equipment does, in fact, meet the applicable standards. At that point, DOE could, if appropriate, take enforcement action.

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.

Information will be collected electronically through CBP’s Automated Commercial Environment (ACE). ACE is an automated and electronic system for processing commercial trade data which is intended to streamline business processes, facilitate growth in trade, ensure

cargo security, and foster participation in global commerce, while ensuring compliance with U.S. laws and regulations.

4. Describe efforts to identify duplication.

DOE currently requires importers of covered products and equipment, or their representatives, to prepare and submit certification reports using DOE's electronic Web-based tool, the Compliance and Certification Management System (CCMS) (see OMB Control Number 1910-1400). The certification report must provide specific information for each basic model, including the product or equipment type, the brand name, and the basic model number. (10 CFR 429.12(b)).

DOE does not intend to collect redundant data from importers regarding covered products and equipment that have already been certified to DOE through CCMS as compliant with all applicable energy conservation standards. Rather, for certified covered products and equipment, importers would only be required to provide the CCMS ticket number, the CCMS attachment identification number assigned to the certification submission, and the line number in the submission corresponding to the basic model certified. In relatively rare instances where a covered product or covered equipment is a component of another product, importers would be required to provide the brand and model number of the product of which the covered product or covered equipment is a component – information that DOE does not currently collect. DOE expects that collecting this information at the time of importation would result in a lower reporting burden than providing this information as part of a standard DOE certification report but has requested comment on this issue in the associated rulemaking.

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

DOE expects that this collection of information would impact small businesses that import covered products or equipment subject to Federal energy or water conservation standards. However, DOE has tried to minimize the reporting burden as much as possible by: (1) accepting only electronic submissions; (2) not requiring submission of redundant data regarding covered products and equipment that have already been certified to DOE through CCMS; and (3) allowing manufacturers to group individual models into basic models for the purposes of certification, thereby reducing the number of discrete certification submissions that importers would be required to reference in their certification of admissibility.

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.

Without information as to all covered products and equipment subject to energy conservation standards that are imported into the United States, there is a risk that a basic model of covered equipment would be imported into the United States with energy or water efficiency

below the required Federal levels. This would have three negative effects: (1) it would distort the market by rewarding a company that is in violation because its products could be more cost-competitive than a company that is in compliance; (2) it would place domestic manufacturers of covered products and equipment at a competitive disadvantage vis-à-vis foreign manufacturers of non-compliant products and equipment; and (3) it would prevent the nation from benefiting from cost-effective energy savings with each non-compliant unit imported into the United States. Furthermore, without this information, it is difficult for DOE to identify noncompliant products with sufficient level of specificity for U.S. Customs and Border Protection to refuse admission under its implementing regulations.

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 product 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, one may apply to this information collection: (a) requiring respondents to report information to the agency more often than quarterly. DOE notes that, without real-time information as to all covered products and equipment subject to energy conservation standards that are imported into the United States, there is a risk that a basic model of covered equipment would be imported into the United States that does not meet the required Federal levels for energy or water efficiency. This would have a number negative effects, as specified above.

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.

The Department published the following Federal Register notice regarding the collection of information subject to this approval:

- Notice of Proposed Rulemaking, Energy Conservation Program: Certification and Enforcement—Import Data Collection (December 29, 2015)

DOE has not received any specific comments regarding the information collection estimates at this time.

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.

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

DOE has outlined the process for submitting the agency's handling of confidential information in 10 CFR 429.7. DOE's regulations also provide that DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure pursuant to DOE's regulations and applicable law, such as the Freedom of Information Act and the Privacy Act.

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.

In this ICR, DOE is requesting authorization to collect information associated with products or equipment subject to DOE regulations submitted via the "single window" provided by the International Trade Data System (ITDS). The information would be collected via a

certification of admissibility submitted through CBP's Automated Commercial Environment, in conjunction with the entry form submitted to CBP.

DOE currently requires importers of covered products and equipment, or their representatives, to prepare and submit certification reports using DOE's electronic Web-based tool, the Compliance and Certification Management System (CCMS). The certification report must provide specific information for each basic model, including the product or equipment type, the brand name, and the basic model number. (10 CFR 429.12(b)).

DOE does not intend to collect redundant data from importers regarding covered products and equipment that have already been certified to DOE through CCMS as compliant with all applicable energy conservation standards. Rather, for certified covered products and equipment, importers would only be required to provide the CCMS ticket number, the CCMS attachment identification number assigned to the certification submission, and the line number in the submission corresponding to the basic model certified. In relatively rare instances where a covered product or covered equipment is a component of another product, importers would be required to provide the brand and model number of the product of which the covered product or covered equipment is a component.

Relying on information from the Department of Commerce and the United States Census, DOE estimates that there are 20,336 persons who may import into the United States covered products or equipment subject to an applicable energy conservation standard. DOE has previously estimated that compliance with the requirements to certify covered products or covered equipment through CCMS requires 2 hours of technician/technical work and 1 hour of clerical work per respondent for each certification report submitted, the latter being an estimate of the time required to enter the required data and submit the report. Based on data from certification reports submitted to CCMS in 2014, and an assumption that each respondent submits approximately 10 certification reports during the course of a year, DOE estimates that an average certification report contained 31.3 lines of data. Therefore, DOE conservatively estimates that 0.03125 (1/32) hours of clerical work is required per line of data contained in an average certification report. The number of data elements per line of a certification report varies depending on the product, but generally is no less than 10 data elements.

In this ICR, DOE is requesting authorization to collect information from importers regarding that importer's most recent certification of any basic model of covered products or equipment. Assuming that, over the course of a year, an importer imports at least one unit of every basic model that it has certified to CCMS, the importer would be required to enter and submit no more than 313 unique sets of data per year, each data including three data elements identifying the most recent certification to CCMS: the CCMS ticket number, the CCMS attachment identification number assigned to the certification submission, and the line number in the submission corresponding to the basic model certified. New certifications of the compliance of basic models to CCMS are required only once per year. Therefore, although it is likely that an importer will import more than one shipment of each basic model per year, only the first shipment during the course of a year would require the entry of unique data.

As noted above, the number of data elements per line in a certification report, the submission of which requires an estimated 0.03125 (1/32) hours of clerical work, varies depending on the product, but none generally require fewer than 10 data elements. By contrast, a certification of admissibility would require submission of 3 data elements (and in the relatively rare instance for a component covered product, 2 additional data elements). Therefore, DOE conservatively estimates that no more than 0.03 hours of clerical work would be needed for entering and submitting the either 3 or 5 data elements required in a certification of admissibility.

Total number of unduplicated respondents for certification of compliance with Federal standards: 20,336

Responses filed per person: 313 per year

Total annual responses: 6,365,168 responses filed

Total annual burden hours for this information collection: 109,955

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

DOE estimates the total annual reporting and recordkeeping burden imposed on importers/filers will be \$4,336,589, which was calculated using an average wage rate of \$22.71 per hour, based on occupation and wage statistics from the Bureau of Labor Statistics (BLS). The general public occupational category was used, as no BLS category was available for importers/filers or a similar occupation. (00-0000 All Occupations: http://www.bls.gov/oes/current/oes_nat.htm#00-0000).

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. The information would be collected electronically via a certification of admissibility submitted through CBP's Automated Commercial Environment, an existing application under the International Trade Data System, a "single window" through which businesses transmit data required by participating agencies for the importation or exportation of cargo. DOE's proposed data collection aligns with the "PGA Message Set" used by other government agencies to collect import data. As the data would be collected electronically and processed automatically, DOE estimates that there would be no additional costs associated with a review of the submission as part of the collection of information.

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

Although Congress enacted EPCA 40 years ago, DOE has only relatively recently put into place policies to comprehensively enforce the energy conservation standards mandated by the Act and subsequent amendments thereto. These efforts include the creation in 2010 of the Office of Enforcement within the DOE Office of the General Counsel and the revamping of requirements for certification of covered products and equipment prior to their distribution in commerce in the United States, adopted in 2011. The ability to monitor the importation of covered products and equipment into the United States, made possible by this information collection, is a logical extension of DOE's enforcement efforts, and is responsive to calls from both industry associations and energy efficiency advocates for improved monitoring and enforcement, in cooperation with CBP, of DOE energy conservation standards with respect to imported products and equipment.

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

DOE does not intend to publish the results of this information collection.

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.