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subpart, the annual gross revenue of any other person who controls, is controlled, by, or is under common control with, such manufacturer shall be taken into account.

§ 430.52 Requirements for applications.

(a) Each application filed under this subpart shall be submitted in triplicate to: U.S. Department of Energy, Small Business Exemptions, Appliance Efficiency Standards, Assistant Secretary for Conservation and Renewable Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

(b) An application shall be in writing and shall include the following:

(1) Name and mailing address of applicant;

(2) Whether the applicant controls, is controlled by, or is under common control with another manufacturer, and if so, the nature of that control relationship;

(3) The text or substance of the standard or portion thereof for which the exemption is sought and the length of time desired for the exemption;

(4) Information showing the annual gross revenue of the applicant for the preceding 12-month period from all of its operations (including the manufacture and sale of covered products);

(5) Information to show that failure to grant an exemption is likely to result in a lessening of competition;

(6) Such other information, if any, believed to be pertinent by the petitioner; and

(7) Such other information as the Secretary may require.

§ 430.53 Processing of applications.

(a) The applicant shall serve a copy of the application, all supporting documents and all subsequent submissions, or a copy from which confidential information has been deleted pursuant to 10 CFR 1004.11, to the Secretary, which may be made available for public review.

(b) Within fifteen (15) days of the receipt of an application, the Secretary will either accept it for filing or reject it, and the applicant will be so notified in writing. Only such applications which conform to the requirements of

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this subpart and which contain sufficient information for the purposes of a substantive decision will be accepted for filing. Applications which do not so conform will be rejected and an explanation provided to the applicant in writing.

(c) For the purpose of this subpart, an application is deemed to be filed on the date it is accepted for filing.

(d) Promptly after receipt of an application and its acceptance for filing, notice of such application shall be published in the FEDERAL REGISTER. The notice shall set forth the availability for public review of data and information available, and shall solicit comments, data and information with respect to the determination on the application. Except as may otherwise be specified, the period for public comment shall be 60 days after the notice appears in the FEDERAL REGISTER.

(e) The Secretary on his own initiative may convene a hearing if, in his discretion, he considers such hearing will advance his evaluation of the application.

§ 430.54 Referral to the Attorney General.

Notice of the application for exemption under this subpart shall be transmitted to the Attorney General by the Secretary and shall contain (a) a statement of the facts and of the reasons for the exemption, and (b) copies of all documents submitted.

§ 430.55 Evaluation of application.

The Secretary shall grant an application for exemption submitted under this subpart if the Secretary finds, after obtaining the written views of the Attorney General, that a failure to allow an exemption would likely result in a lessening of competition.

§ 430.56 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained, the Secretary shall issue an order granting or denying the application.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the order.

(c) The Secretary shall serve a copy of the order upon the applicant and

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upon any other person readily identifiable by the Secretary as one who is interested in or aggrieved by such order. The Secretary also shall publish in the FEDERAL REGISTER a notice of the grant or denial of the order and the reason therefor.

§ 430.57 Duration of temporary exemption.

A temporary exemption terminates according to its terms but not later than twenty-four months after the effective date of the rule for which the exemption is allowed.

Subpart F—Certification and Enforcement

SOURCE: 54 FR 6081, Feb. 7, 1989, unless otherwise noted.

§ 430.60 Purpose and scope.

This subpart sets forth the procedures to be followed for certification and enforcement testing to determine whether a basic model of a covered product complies with the applicable energy conservation standard or water conservation standard (in the case of faucets, showerheads, water closets, and urinals) set forth in subpart C of this part. Energy conservation standards and water conservation standards (in the case of faucets, showerheads, water closets, and urinals) include minimum levels of efficiency and maximum levels of consumption (also referred to as performance standards), and prescriptive energy design requirements (also referred to as design standards).

[63 FR 13319, Mar. 18, 1998]

§ 430.61 Prohibited acts.

(a) Each of the following is a prohibited act pursuant to section 332 of the Act:

(1) Failure to permit access to, or copying of records required to be supplied under the Act and this rule or failure to make reports or provide other information required to be supplied under this Act and this rule;

(2) Failure of a manufacturer to supply at his expense a reasonable number of covered products to a test laboratory designated by the Secretary;

(3) Failure of a manufacturer to permit a representative designated by the Secretary to observe any testing required by the Act and this rule and inspect the results of such testing; and

(4) Distribution in commerce by a manufacturer or private labeler of any new covered product which is not in compliance with an applicable energy efficiency standard or water conservation standard (in the case of faucets, showerheads, water closets, and urinals) prescribed under the Act and this rule.

(b) In accordance with section 333 of the Act, any person who knowingly violates any provision of paragraph (a) of this section may be subject to assessment of a civil penalty of no more than \$110 for each violation. Each violation of paragraph (a) of this section shall constitute a separate violation with respect to each covered product, and each day of noncompliance with paragraphs (a) (1) through (3) of this section shall constitute a separate violation.

[54 FR 6081, Feb. 7, 1989, as amended at 62 FR 46183, Sept. 2, 1997; 63 FR 13319, Mar. 18, 1998]

§ 430.62 Submission of data.

(a) *Certification.* (1) Except as provided in paragraph (a)(2) of this section, each manufacturer or private labeler before distributing in commerce any basic model of a covered product subject to the applicable energy conservation standard or water conservation standard (in the case of faucets, showerheads, water closets, and urinals) set forth in subpart C of this part shall certify by means of a compliance statement and a certification report that each basic model(s) meets the applicable energy conservation standard or water conservation standard (in the case of faucets, showerheads, water closets, and urinals) as prescribed in section 325 of the Act. The compliance statement, signed by the company official submitting the statement, and the certification report(s) shall be sent by certified mail to: Department of Energy, Office of Energy Efficiency and Renewable Energy, Office of Codes and Standards, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585-0121.