

Department of Energy

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showerheads, water closets, and urinals) constitutes the addition of a new basic model. If such change reduces consumption, the new model shall be considered in compliance with the standard without any additional testing. If, however, such change increases consumption while still meeting the standard, all information required by paragraph (a)(4) of this section for the new basic model must be submitted, 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.

(2) Prior to or concurrent with the distribution of a new model of general service fluorescent lamp or incandescent reflector lamp, each manufacturer and private labeler shall submit a statement signed by a company official stating how the manufacturer or private labeler determined that the lamp meets or exceeds the energy conservation standards, including a description of any testing or analysis the manufacturer or private labeler performed. This statement shall also list the model number or descriptor, lamp wattage and date of commencement of manufacture. Manufacturers and private labelers of general service fluorescent lamps and incandescent reflector lamps shall submit the certification report required by paragraph (a)(4) of this section within one year after the date manufacture of that new model commences.

(c) *Discontinued model.* When production of a basic model has ceased and it is no longer being distributed, this shall be reported, 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. For each basic model, the report shall include: product type, product class, the manufacturer's name, the private labeler name(s), if applicable, and the manufacturer's model number. If the reporting of discontinued models coincides with the submittal of a certification report, such information can be included in the certification report.

(d) *Maintenance of records.* The manufacturer or private labeler of any covered product subject to any of the energy performance standards, water performance standards (in the case of faucets, showerheads, water closets, and urinals), or procedures prescribed in this part shall establish, maintain, and retain the records of the underlying test data for all certification testing. Such records shall be organized and indexed in a fashion which makes them readily accessible for review by DOE upon request. The records shall include the supporting test data associated with tests performed on any test units to satisfy the requirements of this subpart. The records shall be retained by the manufacturer (private labeler) for a period of two years from the date that production of the applicable model has ceased.

(e) *Third party representation.* A manufacturer or private labeler may elect to use a third party to submit the certification report to DOE (for example a trade association or other authorized representative). Such certification reports shall include all the information specified in paragraph (a)(4) of this section. Third parties submitting certification reports shall include the names of the manufacturers or private labelers who authorized the submittal of the certification reports to DOE on their behalf. The third party representative also may submit discontinued model information on behalf of an authorizing manufacturer.

[63 FR 13319, Mar. 18, 1998]

§ 430.63 Sampling.

(a) For purposes of a certification of compliance, the determination that a basic model complies with the applicable energy performance standard or water performance standard (in the case of faucets, showerheads, water closets, and urinals) shall be based upon the sampling procedures set forth in § 430.24 of this part. For purposes of a certification of compliance, the determination that a basic model complies with the applicable design standard shall be based upon the incorporation of specific design requirements for clothes dryers, dishwashers, clothes washers and kitchen ranges and ovens specified in section 325 of the Act.

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(b) A basic model which meets the following requirements may qualify as an "other than tested model" for purposes of the certification testing and sampling requirements:

(1) Central air conditioners: The condenser-evaporator coil combinations manufactured by the condensing unit manufacturer other than the combination likely to have the largest volume of retail sales or the condenser-coil combinations manufactured in part by a component manufacturer using the same condensing unit.

(2) For purposes of certification of "other than tested models," as defined in paragraph (b)(1) of this section, a manufacturer may certify the basic model on the basis of computer simulation or engineering analysis as set forth in § 430.23(m) of this part.

[54 FR 6081, Feb. 7, 1989, as amended at 63 FR 13321, Mar. 18, 1998]

§ 430.64 Imported products.

(a) Pursuant to section 331 of the Act, any person importing any covered product into the United States shall comply with the provisions of the Act and of this part, and is subject to the remedies of this part.

(b) Any covered product offered for importation in violation of the Act and of this part shall be refused admission into the customs territory of the United States under rules issued by the Secretary of the Treasury, except that the Secretary of the Treasury may, by such rules, authorize the importation of such covered product upon such terms and conditions (including the furnishing of a bond) as may appear to the Secretary of Treasury appropriate to ensure that such covered product will not violate the Act and this part, or will be exported or abandoned to the United States.

§ 430.65 Exported products.

Pursuant to section 330 of the Act, this part shall not apply to any covered product if (a) such covered product is manufactured, sold, or held for sale for export from the United States (or such product was imported for export), unless such product is, in fact, distributed in commerce for use in the United States, and (b) such covered product, when distributed in commerce, or any

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container in which it is enclosed when so distributed, bears a stamp or label stating that such covered product is intended for export.

§ 430.70 Enforcement.

(a) *Performance standard*—(1) *Test notice*. Upon receiving information in writing concerning the energy performance or water performance (in the case of faucets, showerheads, water closets, and urinals) of a particular covered product of a particular manufacturer or private labeler which indicates that the covered product may not be in compliance with the applicable energy performance standard or water performance standard (in the case of faucets, showerheads, water closets, and urinals), the Secretary may conduct testing of that covered product under this subpart by means of a test notice addressed to the manufacturer in accordance with the following requirements:

(i) Such a procedure will only be followed after the Secretary or his designated representative has examined the underlying test data provided by the manufacturer and after the manufacturer has been offered the opportunity to meet with DOE to verify compliance with the applicable performance standard. A representative designated by the Secretary shall be permitted to observe any reverification procedures by this subpart, and to inspect the results of such reverification.

(ii) The test notice will be signed by the Secretary or his designee. The test notice will be mailed or delivered by DOE to the plant manager or other responsible official, as designated by the manufacturer.

(iii) The test notice will specify the model or basic model to be selected for testing, the method of selecting the test sample, the time at which testing shall be initiated, the date by which testing is scheduled to be completed and the facility at which testing will be conducted. The test notice may also provide for situations in which the selected basic model is unavailable for testing, and may include alternative basic models.

(iv) The Secretary may require in the test notice that the manufacturer of a