

An interim final rule concerning this action was published in the **Federal Register** on June 27, 2005. Copies of the rule were mailed or sent via facsimile by the Board's staff to all Board members, alternates and almond handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register and USDA. That rule provided a 30-day comment period which ended on August 26, 2005. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that finalizing the interim rule, without change as published in the **Federal Register** (70 FR 36816 on June 27, 2005) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

#### PART 981—ALMONDS GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 981 which was published at 70 FR 36816 on June 27, 2005, is adopted as a final rule without change.

Dated: October 13, 2005.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 05-20859 Filed 10-17-05; 8:45 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

#### 10 CFR Parts 430 and 431

**RIN 1904-AB54**

#### Energy Conservation Standards for Certain Consumer Products and Commercial and Industrial Equipment

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Department of Energy (DOE) is publishing this technical amendment to place in the Code of Federal Regulations the energy conservation standards, and related definitions, that Congress prescribed in the Energy Policy Act of 2005 for certain consumer products and commercial and industrial equipment.

**DATES:** *Effective Date:* October 18, 2005.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:**

- I. Background
- II. Summary of Today's Action
- III. Procedural Requirements
- IV. Approval of the Office of the Secretary

#### I. Background

The Energy Policy Act of 2005 (EPACT 2005) (Pub. L. 109-58) was enacted on August 8, 2005. Among the provisions of Subtitle C of Title I of EPACT 2005 are provisions that amend Part B of Title III of the Energy Policy and Conservation Act (EPCA) (42 U.S.C. 6291-6309), which provides for an energy conservation program for consumer products other than automobiles, and Part C of Title III of EPCA (42 U.S.C. 6311-6317), which provides for a program, similar to the one in Part B, for certain commercial and industrial equipment. In addition to

provisions directing DOE to undertake rulemakings to promulgate new or amended energy conservation standards for various consumer products and commercial and industrial equipment, Congress itself prescribed new efficiency standards and related definitions for certain consumer products and commercial and industrial equipment.

By today's action, DOE is placing in the Code of Federal Regulations (CFR), for the benefit of the public, the energy conservation standards and related definitions that Congress has prescribed for various consumer products and commercial and industrial equipment. In this technical amendment, DOE is not exercising any of the discretionary authority that Congress has provided in EPACT 2005 for the Secretary of Energy to revise, by rule, several of the product or equipment definitions and energy conservation standards.<sup>1</sup> DOE may exercise this discretionary authority at a later time in rulemakings to establish test procedures or efficiency standards for these products and equipment.

#### II. Summary of Today's Action

DOE is placing the new energy conservation standards and related definitions into 10 CFR part 430 ("Energy Conservation Program for Consumer Products") or 10 CFR part 431 ("Energy Efficiency Program for Certain Commercial and Industrial Equipment"), as appropriate given the nature or type of the product or equipment. Apparently due to an error in legislative drafting, EPACT 2005 includes provisions dealing with the definitions, test procedures and standards for several types of commercial equipment in a section that amends sections 321, 323 and 325 of Part B of EPCA. Part B contains provisions for the "Energy Conservation Program for Consumer Products Other Than Automobiles." DOE anticipates that this error will be corrected through legislation, and that the provisions will become amendments to Part C of EPCA for "Certain Industrial Equipment." Because the location of the provisions within the statute and the Code of Federal Regulations does not affect either their substance or applicable procedures, DOE is placing them in the appropriate CFR part based on their nature or type. DOE provides a "cross-walk" in Table 1 that shows the location of the standards for the products and equipment in EPACT 2005 and in the Code of Federal Regulations.

<sup>1</sup> See, for example, section 135(a)(2)(B) (the definition of "medium base compact fluorescent

lamp"); section 135(a)(3) (the definition of "commercial prerinse spray valve"); and section

135(c)(4) (standards for medium base compact fluorescent lamps).

TABLE 1

Product/equipment type	EPACT 2005 section	CFR location
Fluorescent lamp ballasts .....	135(c)(2) .....	§ 430.32(m).
Ceiling fans and ceiling fan light kits .....	135(c)(4) .....	§ 430.32(s).
Illuminated exit signs .....	135(c)(4) .....	Part 431, Subpart L.
Torchieres .....	135(c)(4) .....	§ 430.32(t).
Low voltage dry-type distribution transformers .....	135(c)(4) .....	Part 431, Subpart K.
Traffic signal modules and pedestrian modules .....	135(c)(4) .....	Part 431, Subpart M.
Unit heaters .....	135(c)(4) .....	Part 431, Subpart N.
Medium base compact fluorescent lamps .....	135(c)(4) .....	§ 430.32(u).
Dehumidifiers .....	135(c)(4) .....	§ 430.32(v).
Commercial prerinse spray valves .....	135(c)(4) .....	Part 431, Subpart O.
Mercury vapor lamp ballasts .....	135(c)(4) .....	Part 431, Subpart P.
Commercial package air conditioning and heating equipment .....	136(b) .....	Part 431, Subpart F.
Commercial refrigerators, freezers, and refrigerator-freezers .....	136(c) .....	Part 431, Subpart C.
Automatic commercial ice makers .....	136(d) .....	Part 431, Subpart H.
Commercial clothes washers .....	136(e) .....	Part 431, Subpart I.

Where the statute establishes a prescriptive standard that either adopts or is based on voluntary standards of another entity, DOE has incorporated the relevant portion of the source document into the CFR text so that the CFR can be a fully self-contained regulation. This applies to the following: ANSI standards for fluorescent lamp ballasts; certain ENERGY STAR Program requirements or specifications for ceiling fans light kits, illuminated exit signs, traffic signal modules and pedestrian modules, and medium compact fluorescent lamps; and efficiency standards for low voltage dry-type distribution transformers that shall be the same as voluntary standards published by the National Electrical Manufacturers Association (NEMA TP-1-2002). Where terms are defined by another entity, DOE has included the definition in the CFR text, e.g., the terms "AV" and "V" as defined by the Association of Home Appliance Manufacturers.

In addition, DOE has made formatting changes needed to conform the new provisions to the existing text of Parts 430 and Part 431 of Title 10 of the Code of Federal Regulations. DOE has identified several places in EPACT 2005 where correction or clarification of statutory language appears to be warranted. For example, the definition of "distribution transformer" in section 135(a)(2)(B) of EPACT 2005 uses the term "Uninterruptible Power System transformer" instead of "Uninterruptible Power Supply transformer;" the term "impedance transformer" instead of "special impedance transformer;" and the term "sealed and nonventilating transformer" instead of "sealed transformer, nonventilating transformer." Generally these are minor drafting problems that DOE anticipates will be rectified by

Congress; if they are not, then DOE will issue any necessary interpretations in future rulemaking proceedings.

DOE notes that although Congress has prescribed energy conservation standards that will apply to products and equipment manufactured on or after the dates specified in EPACT 2005, manufacturers are not subject to DOE's compliance certification and enforcement programs until DOE promulgates the related test procedures for the new covered products and commercial equipment. While manufacturers are not subject to DOE certification and enforcement programs until DOE promulgates test procedures and related regulations, manufacturers must meet the standards as of the effective date of the standards. Manufacturers must, for example, be able to demonstrate that their products meet the energy conservation standards or energy design standards set by EPACT 2005. Furthermore, the Energy Policy and Conservation Act, as amended, defines the term "manufacture" as "to manufacture, produce, assemble, or import" (42 U.S.C. 6291(10)). Therefore, all consumer products and commercial and industrial equipment covered by this action must, on the date of manufacture, or in the case of imported products, as of the date of import, meet the standards set by EPACT 2005 and adopted in the Code of Federal Regulations by this action. Furthermore, the requirements in EPACT 2005 apply to the manufacture of covered consumer products and commercial and industrial equipment for sale in the 50 States as well as all U.S. territories.

The standards incorporated into the Code of Federal Regulations by today's action are briefly discussed as follows:

*A. Fluorescent lamp ballasts.* Section 135(c) of EPACT 2005 amends section

325(g) of EPCA to adopt energy conservation standards for fluorescent lamp ballasts manufactured on or after July 1, 2009, or sold on or after October 1, 2009, or incorporated into a luminaire manufactured on or after July 1, 2010. The standards apply to fluorescent lamp ballasts with input voltages of 120 or 277 volts and an input frequency of 60 Hertz for 4-foot and 8-foot F34T12, F96T12/ES or F96T12HO/ES fluorescent lamps. These standards are in addition to the standards for fluorescent lamp ballasts manufactured for F40T12, F96T12 or F96T12HO lamps already set out in section 10 CFR 430.32(m)(1)-(4). New paragraph 430.32(m)(5) adds standards for ballasts designed for all Energy Saver fluorescent lamps except for: (1) Replacement ballasts; (2) ballasts designed for dimming to 50 percent or less or the maximum power output of the ballast; (3) ballasts designed for use with two F96T12HO lamps at ambient temperatures of 20 °F or less and for use in an outdoor sign; or (4) ballasts that have a power factor of less than 0.90 and are designed and labeled for use only in residential applications. New paragraph 430.32(m)(6), makes the standards in paragraph 430.32(m)(5) applicable to all ballasts, including replacement ballasts, that are manufactured on or after July 1, 2010, or sold by a manufacturer on or after October 1, 2010. The test procedure for ballasts for Energy Saver fluorescent lamps is found in Appendix Q to Subpart B of Part 430 of the Code of Federal Regulations.

*B. Ceiling fans and ceiling fan light kits.* Section 135(c) of EPACT 2005 amends section 325 of EPCA to add subsections (v) and (ff) with respect to ceiling fans and ceiling fan light kits. New section 325(v) directs the Secretary to prescribe by rule, energy conservation standards for ceiling fans and ceiling fan

light kits not later than one year after the date of enactment of EPCACT 2005, or by August 8, 2006, and new section 325(ff) establishes design standards for ceiling fans and ceiling fan light kits manufactured on or after January 1, 2007. DOE is incorporating the design standards set out in new section 325(ff) in today's rule. The design standards adopted today for ceiling fans require fan speed controls separate from any lighting controls, adjustable speed controls, and generally require the capability of reversible fan action. The design standards for ceiling fan light kits with medium screw based sockets require that they be packaged with screw-based lamps that meet the ENERGY STAR Program Requirements for Compact Fluorescent Lamps, version 3.0, or use other light sources that have at least equivalent lumens per watt performance. The standards for ceiling fan light kits with pin-based sockets require that they be packaged with fluorescent lamps that meet the ENERGY STAR Program Requirements for Residential Light Fixtures, version 4.0. For the benefit of the stakeholder looking for the energy conservation standards specified in EPCACT 2005, DOE is incorporating into 10 CFR Part 430 the specific ENERGY STAR requirements adopted by EPCACT 2005.

*C. Illuminated exit signs.* Section 135(c) of EPCACT 2005 amends section 325 of EPCA to add subsection (w) setting energy conservation standards for illuminated exit signs. As discussed above, apparently due to an error in legislative drafting, EPCACT 2005 inserted provisions for illuminated exit signs, a commercial product, into Part B of EPCA instead of into Part C of EPCA. DOE anticipates that this error will be corrected and as a result, is including the standards for illuminated exit signs in 10 CFR Part 431.

As of January 1, 2006, all illuminated exit signs must meet the ENERGY STAR Program Requirements for Illuminated Exit Signs, version 2.0, which requires an input power demand of 5 watts or less per face. DOE believes this will, in effect, require the use of Light Emitting Diodes (LEDs) in illuminated exit signs. Furthermore, for the benefit of stakeholders looking for the energy conservation standards specified in EPCACT 2005, DOE is incorporating into 10 CFR part 431 the specific ENERGY STAR requirements adopted by EPCACT 2005.

*D. Torchieres.* Section 135(c) of EPCACT 2005 amends section 325 of EPCA to add subsection (x) setting standards for torchieres. Torchieres manufactured on or after January 1, 2006, shall consume not more than 190

watts of power, and shall not be capable of operating with lamps that total more than 190 watts.

*E. Low voltage dry-type distribution transformers.* Section 135(c) of EPCACT 2005 amends section 325 of EPCA to add subsection (y) setting energy conservation standards for low voltage dry-type distribution transformers. As discussed above, apparently due to an error in legislative drafting, EPCACT 2005 inserted provisions for low voltage dry-type distribution transformers, a commercial product, into Part B of EPCA instead of into Part C of EPCA. DOE anticipates that this error will be corrected and as a result, is including the standards for low voltage dry-type distribution transformers in 10 CFR Part 431.

EPCACT 2005 requires that low voltage dry-type distribution transformers manufactured on or after January 1, 2007, shall meet the Class I Efficiency Levels for distribution transformers specified in Table 4-2 of National Electrical Manufacturers Association (NEMA) TP-1-2002, "Guide for Determining Energy Efficiency for Distribution Transformers." For the benefit of stakeholders looking for the standards specified in EPCACT 2005, and after consulting NEMA (who does not object), DOE is codifying the efficiency levels specified in Table 4.2 of NEMA TP-1-2002 in the Code of Federal Regulations.

*F. Traffic signal modules and pedestrian modules.* Section 135(c) of EPCACT 2005 amends section 325 of EPCA to add subsection (z), setting energy conservation standards for traffic signal modules and pedestrian modules. As discussed above, apparently due to an error in legislative drafting, EPCACT 2005 inserted provisions for traffic signal modules and pedestrian modules, commercial products, into Part B of EPCA instead of into Part C of EPCA. DOE anticipates that this error will be corrected and as a result, is including the standards for traffic signal modules and pedestrian modules in 10 CFR Part 431.

As of January 1, 2006, all illuminated exit signs must meet the ENERGY STAR Program Requirements for traffic signals, as in effect on the date of enactment of EPCACT 2005, August 8, 2005, and shall be installed with compatible, electrically connected signal control interface devices and conflict monitoring systems. The ENERGY STAR program for traffic signals is based on a low energy requirement and conformance to the Institute for Transportation Engineers (ITE) "Interim LED Purchase Specification, Vehicle Traffic Control

Signal Heads, Part 2: Light Emitting Diode (LED) Vehicle Traffic Signal Modules" (VTCSH Part 2). For the benefit of stakeholders looking for the energy conservation standards specified in EPCACT 2005, DOE is incorporating into 10 CFR Part 431 the specific ENERGY STAR requirements adopted by EPCACT 2005.

*G. Unit heaters.* Section 135(c) of EPCACT 2005 amends section 325 of the EPCA to add subsection (aa) setting energy conservation standards for unit heaters. As discussed above, apparently due to an error in legislative drafting, EPCACT 2005 inserted provisions for unit heaters, a commercial product, into Part B of EPCA instead of into Part C of EPCA. DOE anticipates that this error will be corrected and as a result, is including the standards for unit heaters in 10 CFR Part 431.

EPCACT 2005 requires that unit heaters manufactured on or after August 8, 2008, be equipped with an intermittent ignition device; and have power venting or an automatic flue damper.

*H. Medium base compact fluorescent lamps.* Section 135(c) of EPCACT 2005 amends section 325 of the EPCA to add subsection (bb) setting energy conservation standards for medium base compact fluorescent lamps. A bare lamp and covered lamp (no reflector) medium base compact fluorescent lamp manufactured on or after January 1, 2006, shall meet minimum initial efficacy, lumen maintenance at 1000 hours, lumen maintenance at 40 percent of rated life, rapid cycle stress test and lamp life requirements prescribed by the August 9, 2001, version of the ENERGY STAR Program Requirements for Compact Fluorescent Lamps. For the benefit of stakeholders, DOE is incorporating into 10 CFR part 430 the specific ENERGY STAR requirements adopted by EPCACT 2005.

*I. Dehumidifiers.* Section 135(c) of EPCACT 2005 amends section 325 of the EPCA to add subsection (cc) setting energy conservation standards for dehumidifiers. Dehumidifiers manufactured on or after October 1, 2007, shall meet minimum energy factor levels specified in EPCACT 2005, depending on their capacity (pints/day).

*J. Commercial prerinse spray valves.* Section 135(c) amends section 325 of EPCA to add subsection (dd) setting water conservation standards for commercial prerinse spray valves. As discussed above, apparently due to an error in legislative drafting, EPCACT 2005 inserted provisions for commercial prerinse spray valves, a commercial product, into Part B of EPCA instead of into Part C of EPCA. DOE anticipates that this error will be corrected and, as

a result, is including the water conservation standards for commercial prerinse spray valves in 10 CFR Part 431. Commercial prerinse spray valves manufactured on or after January 1, 2006, shall have a flow rate of not more than 1.6 gallons per minute.

*K. Mercury vapor lamp ballasts.* Section 135(c) amends section 325 of EPCA to add subsection (ee) prohibiting the manufacture or importation of mercury vapor lamp ballasts. As discussed above, apparently due to an error in legislative drafting, EPACT 2005 inserted provisions for mercury vapor lamp ballasts, a commercial product, into Part B of EPCA instead of into Part C of EPCA. DOE anticipates that this error will be corrected and as a result, is including the standards for mercury vapor lamp ballasts in 10 CFR Part 431. EPACT 2005 requires that mercury vapor lamp ballasts shall not be manufactured or imported after January 1, 2008. With regard to imported ballasts, the standard applies to both the importing of ballasts as well as the importing of mercury vapor lamp luminaires with ballasts, since importing a mercury vapor lamp luminaire with a mercury vapor lamp ballast would be the same as importing a mercury vapor lamp ballast. Therefore, as of January 1, 2008, luminaires cannot be imported with mercury vapor lamp ballasts.

*L. Commercial package air-conditioning and heating equipment.* Section 136(b) of EPACT 2005 amends section 342(a) of EPCA to add subsections (7)–(9) setting energy conservation standards for commercial package air-conditioning and heating equipment manufactured on or after January 1, 2010, shall meet specific minimum energy efficiency levels, depending on category, product capacity (Btu per hour) and the type of heating the equipment has, if any. DOE had begun a rulemaking to set standards for small commercial package air-conditioning and heating equipment (greater than or equal to 65,000 Btu per hour cooling capacity and less than 135,000 Btu per hour cooling capacity) and large commercial package air-conditioning and heating equipment (greater than or equal to 135,000 Btu per hour cooling capacity and less than 240,000 Btu per hour cooling capacity), in accordance with section 342(a)(6)(A) of EPCA, and published an advance notice of proposed rulemaking in the **Federal Register** on July 29, 2005. 68 FR 45460. As a result of EPACT 2005, the rulemaking is moot, and DOE has terminated the rulemaking for small and

large commercial package air conditioning and heating equipment.

*M. Commercial refrigerators, freezers, and refrigerator-freezers.* Section 136(c) of EPACT 2005 amends section 342 of EPCA to add paragraph (c), setting energy conservation standards for commercial refrigerators, freezers and refrigerator-freezers. Commercial refrigerators, freezers and refrigerator-freezers with doors and a self-contained condensing unit manufactured on or after January 1, 2010, shall meet specific maximum allowable daily energy use levels, depending on temperature applications, holding or pull-down applications, door type, and product capacity (cubic feet).

*N. Automatic commercial ice makers.* Section 136(d) of EPACT 2005 amends section 342 of EPCA to add paragraph (d), setting energy conservation standards for automatic commercial ice makers that produce between 50 and 2500 pounds of cube type ice per 24-hour period. Automatic commercial ice makers manufactured on or after January 1, 2010, shall meet specific maximum allowable energy use levels and maximum allowable condenser water use levels, depending on equipment type, cooling type (water or air), and harvest rate (pounds of ice per 24 hour period).

*O. Commercial clothes washers.* Section 136(e) of EPACT 2005 amends section 342 of EPCA to add paragraph (e), setting energy conservation and water conservation standards for commercial clothes washers. The standards for commercial clothes washers are a modified energy factor of at least 1.26 and a water factor of not more than 9.5. As discussed above, EPACT 2005 includes energy conservation standards for commercial clothes washers, based on the test procedures for residential clothes washers found at Appendix J1 to Subpart B of 10 CFR Part 430. EPACT 2005 also adds a water factor requirement for commercial clothes washers which is not found in 10 CFR Part 430 for residential clothes washers. However, the DOE test procedure found at Appendix J1 to Subpart B of Part 430 includes a measurement of water consumption, i.e., water consumption factor. Therefore, for the benefit of stakeholders looking for the energy conservation standards specified in EPACT 2005, DOE is incorporating the modified energy factor and water factor requirements adopted by EPACT 2005 into section 431.156 of 10 CFR Part 431.

### III. Procedural Requirements

#### *A. Review Under Executive Order 12866, "Regulatory Planning and Review"*

Today's final rule is not a "significant regulatory action" under section 3(f)(1) of Executive Order 12866, "Regulatory Planning and Review." 58 FR 51735 (October 4, 1993). Accordingly, today's action was not subject to review by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

#### *B. Review Under the Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, *Proper Consideration of Small Entities in Agency Rulemaking*, 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. The Department has made its procedures and policies available on the Office of General Counsel's Web site: <http://www.gc.doe.gov>. DOE today is revising the Code of Federal Regulations to incorporate, without substantive change, energy conservation standards prescribed by Congress in the Energy Policy Act of 2005. Because this is a technical amendment for which a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act does not apply to this rulemaking.

#### *C. Review Under the Paperwork Reduction Act of 1995*

This rulemaking will impose no new information or recordkeeping requirements. Accordingly, Office of Management and Budget clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

#### *D. Review Under the National Environmental Policy Act of 1969*

DOE has determined that this rule is covered under the Categorical Exclusion found in DOE's National Environmental Policy Act regulations at paragraph A.6 of Appendix A to Subpart D, 10 CFR part 1021, which applies to rulemakings that are strictly procedural. Accordingly, neither an environmental

assessment nor an environmental impact statement is required.

*E. Review Under Executive Order 13132, "Federalism"*

Executive Order 13132, "Federalism," 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE examined this final rule and determined that it does not preempt State law and does not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

*F. Review Under Executive Order 12988, "Civil Justice Reform"*

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney

General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

*G. Review Under the Unfunded Mandates Reform Act of 1995*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments and the private sector. For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and tribal governments on a proposed "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA (62 FR 12820) (also available at <http://www.gc.doe.gov>). This final rule contains neither an intergovernmental mandate nor a mandate that may result in the expenditure of \$100 million or more in any year, so these requirements under the Unfunded Mandates Reform Act do not apply.

*H. Review Under the Treasury and General Government Appropriations Act of 1999*

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105-277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to

prepare a Family Policymaking Assessment.

*I. Review Under Executive Order 12630, "Governmental Actions and Interference With Constitutionally Protected Property Rights"*

The Department has determined, under Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," 53 FR 8859 (March 18, 1988), that this rule would not result in any takings which might require compensation under the Fifth Amendment to the United States Constitution.

*J. Review Under the Treasury and General Government Appropriations Act, 2001*

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's notice under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

*K. Review Under Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use"*

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the

action and their expected benefits on energy supply, distribution, and use. This final rule would not have a significant adverse effect on the supply, distribution, or use of energy and, therefore, is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 804(2).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of today's final rule.

List of Subjects

10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

10 CFR Part 431

Administrative practice and procedure, Commercial products, Energy conservation, Incorporation by reference.

Issued in Washington, DC, on October 5, 2005.

Douglas L. Faulkner,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE hereby amends Chapter II, Subchapter D, of title 10 of the Code of Regulations as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291-6309; 28 U.S.C. 2461 note.

2. Section 430.2 is amended by:

a. Adding in alphabetical order definitions of "ceiling fan," "ceiling fan light kit," "dehumidifier," "medium screw base," "replacement ballast," and "torchiere".

b. Revising the definition of "medium base compact fluorescent lamp".

The revision and additions read as follows:

§ 430.2 Definitions.

\* \* \* \* \*

Ceiling fan means a nonportable device that is suspended from a ceiling for circulating air via the rotation of fan blades.

Ceiling fan light kit means equipment designed to provide light from a ceiling fan that can be—

(1) Integral, such that the equipment is attached to the ceiling fan prior to the time of retail sale; or

(2) Attachable, such that at the time of retail sale the equipment is not physically attached to the ceiling fan, but may be included inside the ceiling fan at the time of sale or sold separately for subsequent attachment to the fan.

\* \* \* \* \*

Dehumidifier means a self-contained, electrically operated, and mechanically encased assembly consisting of—

(1) A refrigerated surface (evaporator) that condenses moisture from the atmosphere;

(2) A refrigerating system, including an electric motor;

(3) An air-circulating fan; and

(4) Means for collecting or disposing of the condensate.

\* \* \* \* \*

Medium base compact fluorescent lamp means an integrally ballasted fluorescent lamp with a medium screw base, a rated input voltage range of 115 to 130 volts and which is designed as a direct replacement for a general service incandescent lamp; however, the term does not include—

(1) Any lamp that is—

(i) Specifically designed to be used for special purpose applications; and

(ii) Unlikely to be used in general purpose applications, such as the applications described in the definition of "General Service Incandescent Lamp" in this section; or

(2) Any lamp not described in the definition of "General Service Incandescent Lamp" in this section that is excluded by the Secretary, by rule, because the lamp is—

(i) Designed for special applications; and

(ii) Unlikely to be used in general purpose applications.

Medium screw base means an Edison screw base identified with the prefix E-26 in the "American National Standard for Electric Lamp Bases", ANSI IEC C81.61-2003, published by the American National Standards Institute.

\* \* \* \* \*

Replacement ballast means a ballast that—

(1) Is designed for use to replace an existing fluorescent lamp ballast in a previously installed luminaire;

(2) Is marked "FOR REPLACEMENT USE ONLY";

(3) Is shipped by the manufacturer in packages containing not more than 10 fluorescent lamp ballasts; and

(4) Has output leads that when fully extended are a total length that is less

than the length of the lamp with which the ballast is intended to be operated.

\* \* \* \* \*

Torchiere means a portable electric lamp with a reflector bowl that directs light upward to give indirect illumination.

\* \* \* \* \*

3. Appendix Q to subpart B of Part 430 is amended by:

a. Amending the definition of "F40T12 lamp" by revising the term "C78.1-1978(R1984)" to read "C78.81-2003 (Data Sheet 7881-ANSI-1010-1)";

b. Amending the definition of "F96T12 lamp" by revising the term "C78.1-1978(R1984)" to read "C78.81-2003 (Data Sheet 7881-ANSI-3007-1)";

c. Revising the definition of "F96T12HO lamp".

d. Redesignating sections 1.6 thru 1.13 as 1.9 thru 1.16.

e. Adding definitions of "F34T12 lamp," "F96T12/ES lamp," and "F96T12HO/ES lamp".

The revision and additions read as follows:

Appendix Q to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Fluorescent Lamp Ballasts

1. Definitions

\* \* \* \* \*

1.5 F96T12HO lamp means a nominal 110 watt tubular fluorescent lamp that is 96 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-1019-1).

1.6 F34T12 lamp (also known as a "F40T12/ES lamp") means a nominal 34 watt tubular fluorescent lamp that is 48 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-1006-1).

1.7 F96T12/ES lamp means a nominal 60 watt tubular fluorescent lamp that is 96 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-3006-1).

1.8 F96T12HO/ES lamp means a nominal 95 watt tubular fluorescent lamp that is 96 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-1017-1).

\* \* \* \* \*

4. Section 430.32 of subpart C is amended by:

a. Revising the introductory sentence of paragraph (m)(1).

b. Adding new paragraphs (m)(5), (m)(6) and (m)(7).

c. Adding new paragraphs (s), (t), (u) and (v).

The revisions and additions read as follows:

§ 430.32 Energy and water conservation standards and effective dates.

\* \* \* \* \*

(m)(1) *Fluorescent lamp ballasts.* Except as provided in paragraphs (m)(2), (m)(3), (m)(4), (m)(5), (m)(6) and (m)(7) of this section, each fluorescent lamp ballast—

\* \* \* \* \*

(5) Except as provided in paragraph (m)(7) of this section, each fluorescent lamp ballast (other than replacement ballasts defined in § 430.2)—

- (i)(A) Manufactured on or after July 1, 2009;
- (B) Sold by the manufacturer on or after October 1, 2009; or
- (C) Incorporated into a luminaire by a luminaire manufacturer on or after July 1, 2010; and
- (ii) Designed—
  - (A) To operate at nominal input voltages of 120 or 277 volts;

- (B) To operate with an input current frequency of 60 Hertz; and
- (C) For use in connection with F34T12 lamps, F96T12/ES lamps, or F96T12HO/ES lamps; shall have a power factor of 0.90 or greater and shall have a ballast efficacy factor of not less than the following:

Application for operation of	Ballast input voltage	Total nominal lamp watts	Ballast efficacy factor
One F34T12 lamp .....	120/277	34	2.61
Two F34T12 lamps .....	120/277	68	1.35
Two F96T12/ES lamps .....	120/277	120	0.77
Two F96T12HO/ES lamps .....	120/277	190	0.42

(6) The standards in paragraph (m)(5) shall apply to all ballasts covered by paragraph (m)(5)(ii), including replacement ballasts and ballasts described in paragraph (m)(7) of this section, that are manufactured on or after July 1, 2010, or sold by the manufacturer on or after October 1, 2010.

(7) The standards in paragraph (m)(5) do not apply to—

- (i) A ballast that is designed for dimming to 50 percent or less of the maximum output of the ballast;
- (ii) A ballast that is designed for use with 2 F96T12HO lamps at ambient temperatures of 20 degrees F or less and for use in an outdoor sign; or
- (iii) A ballast that has a power factor of less than 0.90 and is designed and labeled for use only in residential applications.

\* \* \* \* \*

(s) *Ceiling fans and ceiling fan light kits.*

(1) All ceiling fans manufactured on or after January 1, 2007, shall have the following features:

- (i) Fan speed controls separate from any lighting controls;
- (ii) Adjustable speed controls (either more than 1 speed or variable speed);
- (iii) The capability of reversible fan action, except for—
  - (A) Fans sold for industrial applications;
  - (B) Outdoor applications; and
  - (C) Cases in which safety standards would be violated by the use of the reversible mode.
- (2)(i) Ceiling fan light kits with medium screw base sockets manufactured on or after January 1, 2007, shall be packaged with screw-based lamps to fill all screw base sockets.
- (ii) The screw-based lamps required under paragraph (2)(i) of this section shall—
  - (A) Meet the ENERGY STAR Program requirements for Compact Fluorescent Lamps, version 3; or
  - (B) Use light sources other than compact fluorescent lamps that have lumens per watt performance at least equivalent to comparable configured

compact fluorescent lamps meeting the energy conservation standards described in paragraph (2)(ii)(A) of this section.

(3) Ceiling fan light kits with pin-based sockets for fluorescent lamps manufactured on or after January 1, 2007 shall—

- (i) Meet the ENERGY STAR Program Requirements for Residential Light Fixtures version 4.0 issued by the Environmental Protection Agency; and
  - (ii) Be packaged with lamps to fill all sockets.
- (t) *Torchieres.* A torchiere manufactured on or after January 1, 2006 shall:

- (1) Consume not more than 190 watts of power; and
  - (2) Not be capable of operating with lamps that total more than 190 watts.
- (u) *Medium Base Compact Fluorescent Lamps.* A bare lamp and covered lamp (no reflector) medium base compact fluorescent lamp manufactured on or after January 1, 2006, shall meet the following requirements:

Factor	Requirements
Lamp Power (Watts) & Configuration <sup>1</sup> .....	Minimum Efficiency: lumen/watt (Based upon initial lumen data). <sup>2</sup>
<i>Base Lamp:</i>	
Lamp Power <15 .....	45.0.
Lamp Power ≥15 .....	60.0.
<i>Covered Lamp (no reflector):</i>	
Lamp Power <15 .....	40.0.
15 ≤ Lamp Power <19 .....	48.0.
19 ≤ Lamp Power <25 .....	50.0.
Lamp Power ≥25 .....	55.0.
<i>Covered Lamp (with reflector):</i>	
Lamp Power <20 .....	33.0.
Lamp Power >20 .....	40.0.
1,000-hour Lumen Maintenance .....	The average of at least 5 lamps must be a minimum 90.0% of initial (100-hour) lumen output @ 1,000 hours of rated life.
Lumen Maintenance .....	80.0% of initial (100-hour) rating at 40 percent of rated life (per ANSI C78.5 Clause 4.10).
Rapid Cycle Stress Test .....	Per ANSI C78.5 and IESNA LM-65 (clauses 2,3,5, and 6). <i>Exception:</i> Cycle times must be 5 minutes on, 5 minutes off. Lamp will be cycled once for every two hours of rated life. At least 5 lamps must meet or exceed the minimum number of cycles.

Factor	Requirements
Average Rated Lamp Life .....	≥6,000 hours as declared by the manufacturer on packaging and qualification form. At 80% of rated life, statistical methods may be used to confirm lifetime claims based on sampling performance.

<sup>1</sup> Take performance and electrical requirements at the end of the 100-hour aging period according to ANSI Standard C78.5. The lamp efficacy shall be the average of the lesser of the lumens per watt measured in the base up an/or other specified positions. Use wattages place on packaging to select proper specification efficacy in this table, not measured wattage. Labeled wattages are for reference only.

<sup>2</sup> Efficacies are based on measured values for lumens and wattages from pertinent test data. Wattages and lumens placed on packages may not be used in calculation and are not governed by this specification. For multi-level or dimmable systems, measurements shall be at the highest setting. Acceptable measurement error is +/- 3%.

(v) *Dehumidifiers*. Dehumidifiers manufactured on or after October 1, 2007, shall have an energy factor that meets or exceeds the following values:

Product capacity (pints/day)	Minimum energy factor (liters/kWh)
25.00 or less .....	1.00
25.01–35.00 .....	1.20
35.01–54.00 .....	1.30
54.01–74.99 .....	1.50
75.00 or more .....	2.25

**PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT**

■ 5. The authority citation for part 431 is revised to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 6. Section 431.1 of subpart A is revised to read as follows:

**§ 431.1 Purpose and scope.**

This part establishes the regulations for the implementation of provisions relating to commercial and industrial equipment in Part B of Title III of the Energy Policy and Conservation Act (42 U.S.C. 6291–6309) and in Part C of Title III of the Energy Policy and Conservation Act (42 U.S.C. 6311–6317), which establishes an energy conservation program for certain commercial and industrial equipment.

■ 7. Part 431 is amended by adding a new subpart C consisting of §§ 431.61, 431.62, and 431.66 to read as follows:

**Subpart C—Commercial Refrigerators, Freezers and Refrigerator-Freezers**

**§ 431.61 Purpose and scope.**

This subpart contains energy conservation requirements for

commercial refrigerators, freezers and refrigerator-freezers, pursuant to Part C of Title III of the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6311–6317.

**§ 431.62 Definitions concerning commercial refrigerators, freezers and refrigerator-freezers.**

*Commercial refrigerator, freezer, and refrigerator-freezer* means refrigeration equipment that—

- (1) Is not a consumer product (as defined in § 430.2 of part 430);
- (2) Is not designed and marketed exclusively for medical, scientific, or research purposes;
- (3) Operates at a chilled, frozen, combination chilled and frozen, or variable temperature;
- (4) Displays or stores merchandise and other perishable materials horizontally, semi-vertically, or vertically;
- (5) Has transparent or solid doors, sliding or hinged doors, a combination of hinged, sliding, transparent, or solid doors, or no doors;
- (6) Is designed for pull-down temperature applications or holding temperature applications; and
- (7) Is connected to a self-contained condensing unit or to a remote condensing unit.

*Holding temperature application* means a use of commercial refrigeration equipment other than a pull-down temperature application, except a blast chiller or freezer.

*Integrated average temperature* means the average temperature of all test package measurements taken during the test.

*Pull-down temperature application* means a commercial refrigerator with doors that, when fully loaded with 12 ounce beverage cans at 90 degrees F, can cool those beverages to an average stable

temperature of 38 degrees F in 12 hours or less.

*Remote condensing unit* means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is remotely located from the refrigerated equipment and consists of 1 or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories.

*Self-contained condensing unit* means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is an integral part of the refrigerated equipment and consists of 1 or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories.

**Test Procedures [Reserved]**

**Energy Conservation Standards**

**§ 431.66 Energy conservation standards and their effective dates.**

- (a) In this section—
  - (1) The term “AV” means the adjusted volume (ft<sup>3</sup>) (defined as 1.63 x frozen temperature compartment volume (ft<sup>3</sup>) + chilled temperature compartment volume (ft<sup>3</sup>)) with compartment volumes measured in accordance with the Association of Home Appliance Manufacturers Standard HRF1–1979.
  - (2) The term “V” means the chilled or frozen compartment volume (ft<sup>3</sup>) (as defined in the Association of Home Appliance Manufacturers Standard HRF1–1979).

(b) Each commercial refrigerator, freezer, and refrigerator-freezer with a self-contained condensing unit designed for holding temperature applications manufactured on or after January 1, 2010, shall have a daily energy consumption (in kilowatt hours per day) that does not exceed the following:

Category	Maximum daily energy consumption (kilowatt hours per day)
Refrigerators with solid doors .....	0.10V + 2.04.
Refrigerators with transparent doors .....	0.12V + 3.34.
Freezers with solid doors .....	0.40V + 1.38.
Freezers with transparent doors .....	0.75V + 4.10.
Refrigerator/freezers with solid doors .....	the greater of 0.27AV–0.71 or 0.70.



(c) Each commercial refrigerator with a self-contained condensing unit designed for pull-down temperature applications and transparent doors manufactured on or after January 1, 2010, shall have a daily energy consumption (in kilowatt hours per day) of not more than  $0.126V + 3.51$ .

**§ 431.71 [Amended]**

■ 8. Section 431.71 of subpart D is amended by revising “42 U.S.C. 6311–6316” to read “42 U.S.C. 6311–6317”.

**§ 431.81 [Amended]**

■ 9. Section 431.81 of subpart E is amended by revising “42 U.S.C. 6311–6316” to read “42 U.S.C. 6311–6317”.

**§ 431.91 [Amended]**

■ 10. Section 431.91 of subpart F of part 431 is amended by revising “42 U.S.C. 6311–6316” to read “42 U.S.C. 6311–6317”.

■ 11. In § 431.92 of subpart F of part 431, revise the definitions of “large commercial package air-conditioning and heating equipment” and “small commercial package air-conditioning and heating equipment”, and add new definitions for the terms “commercial package air-conditioning and heating

equipment” and “very large commercial package air-conditioning and heating equipment” in alphabetical order to read as follows:

**§ 431.92 Definitions concerning commercial air conditioners and heat pumps.**

\* \* \* \* \*

*Commercial package air-conditioning and heating equipment* means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air-conditioning heat pumps for commercial application.

\* \* \* \* \*

*Large commercial package air-conditioning and heating equipment* means commercial package air-conditioning and heating equipment that is rated—

- (1) At or above 135,000 Btu per hour; and
- (2) Below 240,000 Btu per hour (cooling capacity).

\* \* \* \* \*

*Small commercial package air-conditioning and heating equipment* means commercial package air-

conditioning and heating equipment that is rated below 135,000 Btu per hour (cooling capacity).

\* \* \* \* \*

*Very large commercial package air-conditioning and heating equipment* means commercial package air-conditioning and heating equipment that is rated—

- (1) At or above 240,000 Btu per hour; and
- (2) Below 760,000 Btu per hour (cooling capacity).

■ 12. Section 431.97 of subpart F of part 431, is amended by:

- a. Designating the existing text as paragraph (a) and adding the words “and before January 1, 2010” after the language in parentheses; and
- b. Adding new paragraph (b) to read as follows:

**§ 431.97 Energy efficiency standards and their effective dates.**

\* \* \* \* \*

(b) Commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall have Energy Efficiency Ratio and Coefficient of Performance no less than:

Product	Cooling capacity (Btu/h)	Category	Efficiency level
Small commercial package air-conditioning and heating equipment (air-cooled).	≥65,000 and <135,000 .....	AC .....	EER = 11.2* EER = 11.0**
		HP .....	EER = 11.0* EER = 10.8**
Large commercial package air-conditioning and heating equipment (air-cooled).	≥135,000 and <240,000 .....	AC .....	EER = 1 1.0* EER = 10.8**
		HP .....	EER = 10.6* EER = 10.4**
Very large commercial package air-conditioning (air-cooled) .....	≥ 240,000 and <760,000 .....	AC .....	EER = 10.0* EER = 9.8**
		HP .....	EER = 9.5* EER = 9.3**
Small commercial package air-conditioning heat pump .....	≥65,000 and <135,000 .....	HP .....	COP = 3.3
Large commercial package air-conditioning heat pump .....	≥135,000 and <240,000 .....	HP .....	COP = 3.2
Very large commercial package air-conditioning heat pump .....	≥ 240,000 and <760,000 .....	HP .....	COP = 3.2

\* This EER level applies to equipment that has electric resistance heat or no heating.  
 \*\* This EER level applies to equipment with all other heating-system types that are integrated into the unitary equipment.  
 \* EER at a standard temperature rating of 95°F dry-bulb and COP at a high temperature rating of 47°F dry-bulb.

**§ 431.101 [Amended]**

■ 13. Section 431.101 of subpart G is amended by revising “42 U.S.C. 6311–6316” to read “42 U.S.C. 6311–6317”.

■ 14. Part 431 is amended by adding a new subpart H consisting of §§ 431.131, 431.132, and 431.136 to read as follows:

**Subpart H—Automatic Commercial Ice Makers**

**§ 431.131 Purpose and scope.**

This subpart contains energy conservation requirements for

commercial ice makers, pursuant to Part C of Title III of the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6311–6317.

**§ 431.132 Definitions concerning automatic commercial ice makers.**

*Automatic commercial ice maker* means a factory-made assembly (not necessarily shipped in 1 package) that—

- (1) Consists of a condensing unit and ice-making section operating as an integrated unit, with means for making and harvesting ice; and

- (2) May include means for storing ice, dispensing ice, or storing and dispensing ice.

*Harvest rate* means the amount of ice (at 32 degrees F) in pounds produced per 24 hours.

**Test Procedures [Reserved]**

**Energy Conservation Standards**

**§ 431.136 Energy conservation standards and their effective dates.**

Each automatic commercial ice maker that produces cube type ice with capacities between 50 and 2500 pounds

per 24-hour period when tested according to the test standard established in accordance with section

343 of EPCA (42 U.S.C. 6314) and is manufactured on or after January 1,

2010, shall meet the following standard levels:

Equipment type	Type of cooling	Harvest rate (lbs ice/24 hours)	Maximum energy use (kWh/100 lbs ice)	Maximum condenser water use* (gal/100 lbs ice)
Ice Making Head	Water	<500	7.80–0.0055H	200–0.022H.
Ice Making Head	Water	≥500 and <1436	5.58–0.0011H	200–0.022H.
Ice Making Head	Water	<1436	4.0	200–0.022H.
Ice Making Head	Air	<450	10.26–0.0086H.	Not applicable.
Ice Making Head	Air	<450	6.89–0.0011H	Not applicable.
Remote Condensing (but not remote compressor).	Air	<1000	8.85–0.0038H	Not applicable.
Remote Condensing (but not remote compressor).	Air	≥1000	5.1	Not applicable.
Remote Condensing and Remote Compressor.	Air	<934	8.85–0.0038H	Not applicable.
Remote Condensing and Remote Compressor.	Air	≥934	5.3	Not applicable.
Self Contained	Water	<200	11.40–0.019H	191–0.0315H.
Self Contained	Water	<200	7.6	191–0.0315H.
Self Contained	Air	<175	18.0–0.0469H	Not applicable.
Self Contained	Air	<175	9.8	Not applicable.

H Harvest rate in pounds per 24 hours.

\* Water use is for the condenser only and does not include potable water used to make ice.

■ 15. Part 431 is amended by adding a new subpart I to read as follows:

**Subpart I—Commercial Clothers Washers**

Sec.

431.151 Purpose and scope.

431.152 Definitions concerning commercial clothers washers.

**Test Procedures**

431.154 Test procedures.

**Energy Conservation Standards**

431.156 Energy and water conservation standards and effective dates.

**Subpart I—Commercial Clothes Washers**

**§ 431.151 Purpose and scope.**

This subpart contains energy conservation requirements for commercial clothes washers, pursuant to Part C of Title III of the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6311–6317.

**§ 431.152 Definitions concerning commercial clothes washers.**

*Commercial clothes washer* means a soft-mounted front-loading or soft-mounted top-loading clothes washer that—

- (1) Has a clothes container compartment that—
  - (i) For horizontal-axis clothes washers, is not more than 3.5 cubic feet; and
  - (ii) For vertical-axis clothes washers, is not more than 4.0 cubic feet; and
- (2) Is designed for use in—
  - (i) Applications in which the occupants of more than one household

will be using the clothes washer, such as multi-family housing common areas and coin laundries; or

- (ii) Other commercial applications.

**Test Procedures**

**§ 431.154 Test procedures.**

The test procedures for residential clothes washers in Appendix J1 to subpart B of part 430 of this title shall be used to test commercial clothes washers.

**Energy Conservation Standards**

**§ 431.156 Energy and water conservation standards and effective dates.**

Each commercial clothes washer manufactured on or after January 1, 2007, shall have—

- (1) A modified energy factor of at least 1.26; and
- (2) A water consumption factor of not more than 9.5.

**Subpart K (§§ 431.190 through 431.196) [Redesignated as Subpart U (§§ 431.381 through 431.387)]**

■ 16. Part 431 is amended by redesignating subpart K as subpart U and redesignating §§ 431.190 through 431.196 as §§ 431.381 through 431.387.

■ 16a. A new Subpart K consisting of §§ 431.191, 431.192, and 431.196 is added to part 431 to read as follows:

**Subpart K—Distribution Transformers**

**§ 431.191 Purpose and scope.**

This subpart contains energy conservation requirements for distribution transformers, pursuant to Part B of Title III of the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6291–6309.

**§ 431.192 Definitions concerning distribution transformers.**

*Distribution transformer* means a transformer that—

- (1) Has an input voltage of 34.5 kilovolts or less;
- (2) Has an output voltage of 600 volts or less; and
- (3) Is rated for operation at a frequency of 60 Hertz; however, the term “distribution transformer” does not include—
  - (i) A transformer with multiple voltage taps, the highest of which equals at least 20 percent more than the lowest;
  - (ii) A transformer that is designed to be used in a special purpose application and is unlikely to be used in general purpose applications, such as a drive transformer, rectifier transformer, auto-transformer, Uninterruptible Power System transformer, impedance transformer, regulating transformer, sealed and non-ventilating transformer, machine tool transformer, welding transformer, grounding transformer, or testing transformer; or
  - (iii) Any transformer not listed in paragraph (3)(ii) of this definition that is excluded by the Secretary by rule because—

(A) The transformer is designed for a special application;  
 (B) The transformer is unlikely to be used in general purpose applications; and  
 (C) The application of standards to the transformer would not result in significant energy savings.  
*Low-voltage dry-type distribution transformer* means a distribution transformer that—

(1) Has an input voltage of 600 volts or less;  
 (2) Is air-cooled; and  
 (3) Does not use oil as a coolant.  
*Transformer* means a device consisting of 2 or more coils of insulated wire that transfers alternating current by electromagnetic induction from 1 coil to another to change the original voltage or current value.

**Test Procedures [Reserved]**  
 Energy Conservation Standards  
**§ 431.196 Energy conservation standards and their effective dates.**  
 (a) *Low Voltage Dry-Type Distribution Transformers*. The efficiency of a low voltage dry-type distribution transformer manufactured on or after January 1, 2007, shall be no less than the following:

Single phase efficiency kVA	Three phase efficiency		
	Low voltage	kVA	Low voltage
15 .....	97.7	15	97.0
25 .....	98.0	30	97.5
37.5 .....	98.2	45	97.7
50 .....	98.3	75	98.0
75 .....	98.5	112.5	98.2
100 .....	98.6	150	98.3
167 .....	98.7	225	98.5
250 .....	98.8	300	98.6
333 .....	98.9	500	98.7
		750	98.8
		1000	98.9

(Source: Table 4–2 of National Electrical Manufacturers Association (NEMA) Standard TP–1–2002, “Guide for Determining Energy Efficiency for Distribution Transformers.”)

(b) *Liquid-Immersed Distribution Transformers*. [Reserved]  
 (c) *Medium Voltage Dry-Type Distribution Transformers*. [Reserved]

**Subpart L (§§ 431.201 through 431.207) [Redesignated as Subpart V (§§ 431.401 through 431.407)]**

- 17. Part 431 is amended by redesignating subpart L as subpart V and redesignating §§ 431.201 through 431.207 as §§ 431.401 through 431.407.
- 17a. A new subpart L consisting of §§ 431.201, 431.202, and 431.206 is added to part 431 to read as follows:

**Subpart L—Illuminated Exit Signs**

**§ 431.201 Purpose and scope.**

This subpart contains energy conservation requirements for illuminated exit signs, pursuant to Part B of Title III of the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6291–6309.

**§ 431.202 Definitions concerning illuminated exit signs.**

*Illuminated exit sign* means a sign that—  
 (1) Is designed to be permanently fixed in place to identify an exit; and  
 (2) Consists of an electrically powered integral light source that—

- (i) Illuminates the legend “EXIT” and any directional indicators; and
- (ii) Provides contrast between the legend, any directional indicators, and the background.

**Test Procedures [Reserved]**  
**Energy Conservation Standards**

**§ 431.206 Energy conservation standards and their effective dates.**

An illuminated exit sign manufactured on or after January 1, 2006, shall have an input power demand of 5 watts or less per face.

**Subpart M (§§ 431.211 through 431.220) [Redesignated as Subpart W (§§ 431.421 through 431.430)]**

- 18. Part 431 is amended by redesignating subpart M as subpart W and redesignating §§ 431.211 through 431.220 as §§ 431.421 through 431.430.
- 18a. A new subpart M consisting of §§ 431.221, 431.222, and 431.226 is added to part 431 to read as follows:

**Subpart M—Traffic Signal Modules and Pedestrian Modules**

**§ 431.221 Purpose and scope.**

This subpart contains energy conservation requirements for traffic

signal modules and pedestrian modules, pursuant to Part B of Title III of the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6291–6309.

**§ 431.222 Definitions concerning traffic signal modules and pedestrian modules.**

*Pedestrian module* means a light signal used to convey movement information to pedestrians.

*Traffic signal module* means a standard 8-inch (200 mm) or 12-inch (300 mm) traffic signal indication that—

- (1) Consists of a light source, a lens, and all other parts necessary for operation; and
- (2) Communicates movement messages to drivers through red, amber, and green colors.

**Test Procedures [Reserved]**  
**Energy Conservation Standards**

**§ 431.226 Energy conservation standards and their effective dates.**

Any traffic signal module or pedestrian module manufactured on or after January 1, 2006, shall meet both of the following requirements:

- (a) Have a nominal wattage no greater than:

Traffic Signal Module Type:	Maximum wattage (at 74 °C)	Nominal wattage (at 25 °C)

	Maximum wattage (at 74 °C)	Nominal wattage (at 25 °C)
12" Red Ball .....	17	11
8" Red Ball .....	13	8
12" Red Arrow .....	12	9
12" Green Ball .....	15	15
8" Green Ball .....	12	12
12" Green Arrow .....	11	11
Pedestrian Module Type:		
Combination Walking Man/Hand .....	16	13
Walking Man .....	12	9
Orange Hand .....	16	13

(b) Be installed with compatible, electrically connected signal control interface devices and conflict monitoring systems.

■ 19. Part 431 is amended by adding a new subpart N consisting of §§ 431.241, 431.242, and 431.246 to read as follows:

**Subpart N—Unit Heaters**

**§ 431.241 Purpose and scope.**

This subpart contains energy conservation requirements for unit heaters, pursuant to Part B of Title III of the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6291–6309.

**§ 431.242 Definitions concerning unit heaters.**

*Unit heater* means a self-contained fan-type heater designed to be installed within the heated space; however, the term does not include a warm air furnace.

**Test Procedures [Reserved]**

**Energy Conservation Standards**

**§ 431.246 Energy conservation standards and their effective dates.**

A unit heater manufactured on or after August 8, 2008, shall:

(a) Be equipped with an intermittent ignition device; and

(b) Have power venting or an automatic flue damper.

■ 20. Part 431 is amended by adding a new subpart O consisting of §§ 431.261, 431.262, and 431.266 to read as follows:

**Subpart O—Commercial Prerinse Spray Valves**

**§ 431.261 Purpose and scope.**

This subpart contains energy conservation requirements for commercial prerinse spray valves, pursuant to section 135 of the Energy Policy Act of 2005, Pub. L. 109–58.

**§ 431.262 Definitions concerning commercial prerinse spray valves.**

*Commercial prerinse spray valve* means a handheld device designed and marketed for use with commercial

dishwashing and ware washing equipment that sprays water on dishes, flatware, and other food service items for the purpose of removing food residue before cleaning the items.

**Test Procedures [Reserved]**

**Energy Conservation Standards**

**§ 431.266 Energy conservation standards and their effective dates.**

Commercial prerinse spray valves manufactured on or after January 1, 2006, shall have a flow rate of not more than 1.6 gallons per minute.

■ 21. Part 431 is amended by adding a new subpart P consisting of §§ 431.281, 431.282, and 431.286 to read as follows:

**Subpart P—Mercury Vapor Lamp Ballasts**

**§ 431.281 Purpose and scope.**

This subpart contains energy conservation requirements for mercury vapor lamp ballasts, pursuant to section 135 of the Energy Policy Act of 2005, Pub. L. 109–58.

**§ 431.282 Definitions concerning mercury vapor lamp ballasts.**

*High intensity discharge lamp* means an electric-discharge lamp in which—

(1) The light-producing arc is stabilized by bulb wall temperature; and

(2) The arc tube has a bulb wall loading in excess of 3 Watts/cm<sup>2</sup>, including such lamps that are mercury vapor, metal halide, and high-pressure sodium lamps.

*Mercury vapor lamp* means a high intensity discharge lamp in which the major portion of the light is produced by radiation from mercury operating at a partial pressure in excess of 100,000 PA (approximately 1 atm), including such lamps that are clear, phosphor-coated, and self-ballasted.

*Mercury vapor lamp ballast* means a device that is designed and marketed to start and operate mercury vapor lamps by providing the necessary voltage and current.

**Test Procedures [Reserved]**

**Energy Conservation Standards**

**§ 431.286 Energy conservation standards and their effective dates.**

Mercury vapor lamp ballasts shall not be manufactured or imported after January 1, 2008.

**Subparts Q–T—[Reserved]**

■ 22. Subparts Q through T are added and reserved.

[FR Doc. 05–20701 Filed 10–17–05; 8:45 am]

BILLING CODE 6450–01–P

**FEDERAL RESERVE SYSTEM**

**12 CFR Part 229**

[Regulation CC; Docket No. R–1237]

**Availability of Funds and Collection of Checks**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Board of Governors is amending appendix A of Regulation CC to delete the reference to the Oklahoma City branch office of the Federal Reserve Bank of Kansas City and reassign the Federal Reserve routing symbols currently listed under that office to the head office of the Federal Reserve Bank of Dallas and delete the reference to the Columbus office of the Federal Reserve Bank of Cleveland and reassign the routing symbols listed under that office to the Cincinnati branch office and the head office of that Reserve Bank. These amendments will ensure that the information in appendix A accurately describes the actual structure of check processing operations within the Federal Reserve System. The amendments to the routing symbol lists in appendix A under the Federal Reserve Bank of Cleveland differ from the Board’s September 28, 2004, general advance notice. (See 69 FR 57837.)