

§ 430.75

10 CFR Ch. II (1–1–11 Edition)

(c)(1) In the case of any civil penalty with respect to which the procedures of this section have been elected, the Secretary shall promptly assess such penalty, by order, after the date of the receipt of the notice under paragraph (a) of this section of the proposed penalty.

(2) If the civil penalty has not been paid within 60 calendar days after the assessment has been made under paragraph (c)(1) of this section, the Secretary shall institute an action in the appropriate District Court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

(3) Any election to have this paragraph apply may not be revoked except with the consent of the Secretary.

(d) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (b) of this section, or after the appropriate District Court has entered final judgment in favor of the Secretary under paragraph (c) of this section, the Secretary shall institute an action to recover the amount of such penalty in any appropriate District Court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review.

(e)(1) In accordance with the provisions of section 333(d)(5)(A) of the Act and notwithstanding the provisions of title 28, United States Code, or section 502(c) of the Department of Energy Organization Act, the Secretary shall be represented by the General Counsel of the Department of Energy (or any attorney or attorneys within DOE designated by the Secretary) who shall supervise, conduct, and argue any civil litigation to which paragraph (c) of this section applies including any related collection action under paragraph (d) of this section in a court of the United States or in any other court, except the Supreme Court of the United States. However, the Secretary or the General Counsel shall consult

with the Attorney General concerning such litigation and the Attorney General shall provide, on request, such assistance in the conduct of such litigation as may be appropriate.

(2) In accordance with the provisions of section 333(d)(5)(B) of the Act, and subject to the provisions of section 502(c) of the Department of Energy Organization Act, the Secretary shall be represented by the Attorney General, or the Solicitor General, as appropriate, in actions under this section, except to the extent provided in paragraph (e)(1) of this section.

(3) In accordance with the provisions of section 333(d)(5)(C) of the Act, section 402(d) of the Department of Energy Organization Act shall not apply with respect to the function of the Secretary under this section.

§ 430.75 Confidentiality.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information or data which the person believes to be confidential and exempt law from public disclosure should submit one complete copy, and fifteen copies from which the information believed to be confidential has been deleted. In accordance with the procedures established at 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

(OMB Control No. 1910-1400)

APPENDIX A TO SUBPART F OF PART 430—COMPLIANCE STATEMENT AND CERTIFICATION REPORT

COMPLIANCE STATEMENT

Product: _____
Manufacturer's or Private Labeler's Name and Address: _____

This compliance statement and all certification reports submitted are in accordance with 10 CFR Part 430 (Energy or Water Conservation Program for Consumer Products) and the Energy Policy and Conservation Act, as amended. The compliance statement is signed by a responsible official of the above named company. The basic model(s) listed in certification reports comply with the applicable energy conservation standard or water

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(in the case of faucets, showerheads, water closets, and urinals) conservation standard. All testing on which the certification reports are based was conducted in conformance with applicable test requirements prescribed in 10 CFR part 430 subpart B. All information reported in the certification report(s) is true, accurate, and complete. The company is aware of the penalties associated with violations of the Act, the regulations thereunder, and is also aware of the provisions contained in 18 U.S.C. 1001, which prohibits knowingly making false statements to the Federal Government.

Name of Company Official: _____
 Signature: _____
 Title: _____
 Firm or Organization: _____
 Address: _____
 Telephone Number: _____
 Facsimile Number: _____
 Date: _____

Third Party Representation (if applicable)

For certification reports prepared and submitted by a third party organization under the provisions of §430.62 of 10 CFR part 430, the company official who authorized said third party representation is:

Name: _____
 Title: _____
 Address: _____
 Telephone Number: _____
 Facsimile Number: _____

The third party organization submitting the certification report on behalf of the company is:

Third Party Organization: _____
 Address: _____
 Telephone Number: _____
 Facsimile Number: _____

CERTIFICATION REPORT

Date: _____
 Product Type: _____
 Product Class: _____
 Manufacturer: _____
 Private Labeler (if applicable): _____
 Name: _____
 Title: _____
 Address: _____
 Telephone Number: _____
 Facsimile Number: _____

For Existing, New, or Modified Models¹:
 For Discontinued Models²:

[63 FR 13321, Mar. 18, 1998]

¹Provide specific product information including, for each basic model, the manufacturer's model numbers and the information required in §430.62(a)(4)(i) through (a)(4)(xvii).
²Provide manufacturer's model number.

APPENDIX B TO SUBPART F OF PART 430—SAMPLING PLAN FOR ENFORCEMENT TESTING

Double Sampling

Step 1. The first sample size (N_1) must be four or more units.

Step 2. Compute the mean (\bar{x}_1) of the measured energy performance or water performance (in the case of faucets, showerheads, water closets, and urinals) of the N_1 units in the first sample as follows:

$$\bar{x}_1 = \frac{1}{n_1} \left(\sum_{i=1}^{n_1} x_i \right) \quad (1)$$

where (\bar{x}_1) is the measured energy efficiency, energy or water (in the case of faucets, showerheads, water closets, and urinals) consumption of unit I.

Step 3. Compute the standard deviation (s_1) of the measured energy or water performance of the (N_1) units in the first sample as follows:

$$s_1 = \sqrt{\frac{\sum_{i=1}^{n_1} (x_i - \bar{x}_1)^2}{n_1 - 1}} \quad (2)$$

Step 4. Compute the standard error ($S_{\bar{x}_1}$) of the measured energy or water performance of the N_1 units in the first sample as follows:

$$s_{\bar{x}_1} = \frac{s_1}{\sqrt{n_1}} \quad (3)$$

Step 5. Compute the upper control limit (UCL_1) and lower control limit (LCL_1) for the mean of the first sample using the applicable DOE energy or water performance standard (EPS) as the desired mean and a probability level of 95 percent (two-tailed test) as follows:

$$LCL_1 = EPS - t s_{\bar{x}_1} \quad (4)$$

$$UCL_1 = EPS + t s_{\bar{x}_1} \quad (5)$$

where t is a statistic based on a 95 percent two-tailed probability level and a sample size of N_1 .

Step 6(a). For an Energy Efficiency Standard, compare the mean of the first sample (\bar{x}_1) with the upper and lower control limits (UCL_1 and LCL_1) to determine one of the following:

- (1) If the mean of the first sample is below the lower control limit, then the basic model is in noncompliance and testing is at an end. (Do not go on to any of the steps below.)
- (2) If the mean of the first sample is equal to or greater than the upper control limit,