as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 70.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

■ 1. The authority citation for part 70 continues to read as follows:

Authority: Atomic Energy Act secs. 51, 53, 161, 182, 183, 193, 223, 234 (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2243, 2273, 2282, 2297f); secs. 201, 202, 204, 206, 211 (42 U.S.C. 5841, 5842, 5845, 5846, 5851); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109–58, 119 Stat. 194 (2005).

Sections 70.1(c) and 70.20a (b) also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

Section 70.21(g) also issued under Atomic Energy Act sec. 122 (42 U.S.C. 2152). Section 70.31 also issued under Atomic Energy Act sec. 57(d) (42 U.S.C. 2077(d)). Sections 70.36 and 70.44 also issued under Atomic Energy Act sec. 184 (42 U.S.C. 2234). Section 70.81 also issued under Atomic Energy Act secs. 186, 187 (42 U.S.C. 2236, 2237). Section 70.82 also issued under Atomic Energy Act sec. 108 (42 U.S.C. 2138).

■ 2. In § 70.50, revise the first sentence of the introductory text of paragraph (c)(2) to read as follows:

§ 70.50 Reporting requirements.

* * * * *

(c) * * *

(2) *Written report.* Each licensee that makes a report required by paragraph (a) or (b) of this section shall submit a written follow-up report within 30 days of the initial report. * * *

* * * * *

■ 3. In § 70.74, revise paragraph (b) to read as follows:

§ 70.74 Additional reporting requirements.

* * * * *

(b) *Written reports.* Each licensee that makes a report required by paragraph (a)(1) of this section shall submit a written follow-up report within 60 days of the initial report. The written report must be sent to the NRC's Document Control Desk, using an appropriate method listed in § 70.5(a), with a copy to the appropriate NRC regional office listed in appendix D to part 20 of this chapter. The reports must include the information as described in § 70.50(c)(2)(i) through (iv).

Appendix A to Part 70—[Amended]

■ 4. Amend appendix A to part 70 by:

■ a. In the introductory text to paragraph (a), removing the number ''30'' and adding, in its place, the number ''60;''

■ b. Removing paragraph (a)(5);

■ c. In the introductory text to paragraph (b), removing the number ''30'' and adding, in its place, the number ''60;'' and

■ d. Removing paragraph (b)(5).

Dated at Rockville, Maryland, this 15th day of September, 2014.

For the Nuclear Regulatory Commission.

Mark A. Satorius,

Executive Director for Operations.

[FR Doc. 2014–22865 Filed 9–25–14; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Parts 429

[Docket No. EERE–2011–BT–TP–0024]

RIN 1904–AC46

Energy Conservation Program: Alternative Efficiency Determination Methods, Basic Model Definition, and Compliance for Commercial HVAC, Refrigeration, and Water Heating Equipment

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

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The U.S. Department of Energy (DOE) is proposing to revise its regulations governing DOE verification testing of industrial equipment covered by EPCA rated with alternative efficiency determination methods (AEDMs). These regulations arose from a negotiated rulemaking effort on issues regarding certification of commercial heating, ventilating, air-conditioning (HVAC), water heating (WH), and refrigeration equipment.

DATES: *Comments:* DOE will accept comments, data, and information regarding this supplemental notice of proposed rulemaking (SNOPR) no later than October 27, 2014. See section IV, ''Public Participation,'' for details.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov.* Alternatively, interested persons may submit comments, identified by docket number EERE–2011–BT–TP–0024 and/or RIN 1904–AC46, by any of the following methods:

• *Email: AED-ARM-2011-TP-0024@ee.doe.gov* Include EERE–2011–BT–TP–0024 and/or RIN 1904–AC46 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

• *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585- 0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

• *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW., 6th Floor, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

For detailed instructions on submitting comments and additional information on the rulemaking process, see section IV of this document (Public Participation).

Docket: The docket is available for review at *www.regulations.gov,* including **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2011-BT-TP-0024.* This Web page contains a link to the docket for this notice on the *www.regulations.gov* site. The *www.regulations.gov* Web page contains simple instructions on how to access all documents, including public comments, in the docket. See section V, ''Public Participation,'' for information on how to submit comments through *www.regulations.gov.*

For information on how to submit a comment or review other public comments and the docket, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Email: *Ashley.Armstrong@ee.doe.gov;* and Ms. Laura Barhydt, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–32, 1000 Independence Avenue SW., Washington, DC 20585. Email: *Laura.Barhydt@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Authority and Background

I. Authority and Background

Authority

Title III of the Energy Policy and Conservation Act of 1975, as amended (''EPCA'' or, in context, ''the Act'') sets forth a variety of provisions designed to improve energy efficiency. Part A of Title III (42 U.S.C. 6291–6309) provides for the Energy Conservation Program for Consumer Products Other Than Automobiles. The National Energy Conservation Policy Act (NECPA), Public Law 95–619, amended EPCA to add Part A–1 of Title III, which established an energy conservation program for certain industrial equipment. (42 U.S.C. 6311–6317) [1] The Department of Energy (''DOE'') is charged with implementing these provisions.

Under EPCA, this program consists essentially of four parts: (1) Testing; (2) labeling; (3) Federal energy conservation standards; and (4) certification and enforcement procedures. The Federal Trade Commission (FTC) is primarily responsible for labeling of consumer products, and DOE implements the remainder of the program. The testing requirements consist of test procedures that manufacturers of covered products and equipment must use (1) as the basis for certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA, and (2) for making representations about the efficiency of those products and equipment. Similarly, DOE must use these test requirements to determine whether the products comply with any relevant standards promulgated under EPCA. For certain consumer products and industrial equipment, DOE's existing testing regulations allow the use of an alternative efficiency determination method (AEDM) or an alternative rating method (ARM), in lieu of actual testing, to simulate the energy consumption or efficiency of certain basic models of covered products under DOE's test procedure conditions.

In addition, EPCA (through 42 U.S.C. 6299–6305 and 6316) authorizes DOE to enforce compliance with the energy and water conservation standards (all non-product specific references herein referring to energy use and consumption include water use and consumption; all references to energy efficiency include water efficiency) established for certain consumer products and commercial equipment. (42 U.S.C. 6299–6305 (consumer products), 6316 (commercial equipment)) DOE has promulgated enforcement regulations that include specific certification and compliance requirements. *See* 10 CFR part 429; 10 CFR part 431, subparts B, U, and V.

Background

On March 7, 2011, DOE published a final rule in the **Federal Register** that, among other things, modified the requirements regarding manufacturer submission of compliance statements and certification reports to DOE (hereafter referred to as the March 2011 Final Rule). 76 FR 12422. This rule, among other things, imposed new or revised reporting requirements for some types of covered products and equipment, including a requirement that manufacturers submit annual reports to the Department certifying compliance of their basic models with applicable standards. See 76 FR 12428–12429 for more information.

In response to the initial deadline for certifying compliance imposed on commercial heating, ventilation, and air conditioning (HVAC), water heating (WH), and refrigeration equipment manufacturers by the March 2011 Final Rule, certain manufacturers of particular types of commercial and industrial equipment stated that, for a variety of reasons, they would be unable to meet that deadline. DOE initially extended the deadline for certifications for commercial HVAC, WH, and refrigeration equipment in a final rule published June 30, 2011 (hereafter referred to as the June 2011 Final Rule). 76 FR 38287. DOE subsequently extended the compliance date for certification by an additional 12 months to December 31, 2013, for these types of equipment (December 2012 Final Rule) to allow, among other things, the Department to explore the negotiated rulemaking process for this equipment. 77 FR 76825 (Dec. 31, 2012).

Earlier, in the summer of 2012, DOE had an independent convener evaluate the likelihood of success of using the negotiated rulemaking process to develop a consensus-based approach with respect to the regulation of commercial HVAC, WH, and refrigeration equipment by analyzing the feasibility of developing certification requirements for these equipment types.[2] In October 2012, the convener issued his report based on a confidential interview process involving forty (40) parties from a wide range of commercial HVAC, WH, and refrigeration equipment interests. Ultimately, the convener recommended that, with the proper scope of issues on the table surrounding commercial HVAC, WH, and refrigeration equipment certification, a negotiated rulemaking appeared to have a reasonable likelihood of achieving consensus based on the factors set forth in the Negotiated Rulemaking Act (5 U.S.C. 561–570) because the interviewed parties believed the negotiated rulemaking was superior to notice and comment rulemaking for certification-related issues. For additional details of the report, see *https://www1.eere.energy.gov/buildings/appliance_standards/pdfs/convening_report_hvac_cre_1.pdf.*

On February 26, 2013, members of the Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC) unanimously decided to form a working group to engage in a negotiated rulemaking effort on the certification of HVAC, WH, and commercial refrigeration equipment. A notice of intent to form the Commercial Certification Working Group was published in the **Federal Register** on March 12, 2013, to which DOE received 35 nominations. 78 FR 15653. On April 16, 2013, the Department published a notice of open meeting that announced the first meeting and listed the 22 nominations that were selected to serve as members of the Working Group, in addition to two members from ASRAC, and one DOE representative. 78 FR 22431. The members of the Working Group were selected to ensure a broad and balanced array of stakeholder interests and expertise, and included efficiency advocates, manufacturers, a

[1] For editorial reasons, Parts B (consumer products) and C (commercial equipment) of Title III of EPCA were re-designated as parts A and A–1, respectively, in the United States Code.

[2] Walk-in coolers and freezers, which are treated as a separate equipment type by statute, were not part of this analysis.

utility representative, and third-party laboratory representatives.

During the Working Group's first meeting, Working Group members voted to expand the scope of the negotiated rulemaking efforts to include developing methods of estimating equipment performance based on AEDM simulations. AEDMs are computer modeling or mathematical tools that predict the performance of non-tested basic models. They are derived from mathematical and engineering principles that govern the energy efficiency and energy consumption characteristics of a type of covered equipment. AEDMs, when properly developed, can provide a relatively straightforward and reasonably accurate means to predict the energy usage or efficiency characteristics of a basic model of a given covered product or equipment and reduce the burden and cost associated with testing. Where authorized by regulation, AEDMs enable manufacturers to rate and certify the compliance of their basic models by using the projected energy use or energy efficiency results derived from these simulation models in lieu of testing.

The Working Group discussed the particular elements that the AEDM simulations should address for each equipment type and other related considerations of note, including validation requirements for AEDMs, DOE verification of models rated with an AEDM, and the consequences for misuse of the AEDM construct. As required, the Working Group submitted an interim report to ASRAC on June 26, 2013, summarizing the group's recommendations regarding AEDMs for commercial HVAC, WH, and refrigeration equipment. The interim report to ASRAC can be found at *http://www.regulations.gov/#!documentDetail;D=EERE-2013-BT-NOC-0023-0046.*

ASRAC subsequently voted unanimously to approve the recommendations in the interim report for AEDMs. Later, the Working Group submitted a final report on August 30, 2013, summarizing the Working Group's recommendations for model grouping, certification requirements and deadlines, and features to be excluded from certification, verification, and enforcement testing as long as specific conditions were met. ASRAC voted unanimously to approve the recommendations in the final report.

On October 22, 2013, the Department published in the **Federal Register** a Supplemental Notice of Proposed Rulemaking (hereafter referred to as the October 2013 AEDM SNOPR) regarding alternative efficiency determination methods, basic model definitions, and certification compliance dates for commercial HVAC, refrigeration, and WH equipment. 78 FR 62472. The October 2013 AEDM SNOPR also proposed a process for DOE to conduct verification testing to ensure that models rated with an AEDM perform to their certified ratings. As part of the verification testing process, the Working Group recommended that a manufacturer may elect to have a DOE representative and a manufacturer's representative on site for the initial test of up to 10 percent of all basic models that they have rated with an AEDM. However, commenters raised concerns over the Department's proposal allowing manufacturers to witness verification tests. In reviewing their comments, DOE determined that its proposed regulatory text, which was based in large part on the Working Group's recommendation, may not have been sufficiently clear. Accordingly, DOE decided not to finalize any regulation regarding witness testing when issuing the December 31, 2013 Final Rule on AEDM requirements for commercial HVAC, refrigeration, and WH equipment. See 78 FR 79579, 79585 for additional details.

DOE is proposing regulations to allow manufacturers to witness the test set-up as part of the AEDM verification process. The Department's intent is to establish a clear process while ensuring that the regulatory text reflects the recommendations of the Working Group.

II. Discussion of Specific Revisions to DOE's Regulations for Alternative Efficiency Determination Methods Verification Testing

Between April 30, 2013, and August 28, 2013, the Commercial Certification Working Group held nine meetings in Washington, DC in which sixty-nine interested parties participated. More details of the discussions and recommendations can be found in the Commercial Certification Working Group meeting transcripts, which are located at *http://www.regulations.gov/#!docketDetail;D=EERE-2013-BT-NOC-0023.* DOE published the Working Group's recommendations regarding AEDM validation and verification in the October 2013 AEDM SNOPR (78 FR 62472) and then subsequently finalized most of these recommendations, excluding the provisions regarding witness testing, in a Final Rule. (78 FR 79579).

The Working Group negotiated the process that DOE would use, through third-party testing, to verify a given basic model's certified rating when established by an AEDM; DOE codified this process in the December 31, 2013 AEDM final rule. 78 FR 79579. Under this approach, DOE will first select a single unit of a given basic model for testing either from retail or, if not available from retail, by obtaining a sample from the manufacturer. DOE will then test the unit at an independent, third-party testing facility of the Department's choosing, unless no third-party laboratory is capable of testing the equipment, in which case it may be tested at a manufacturer's facility. For some equipment, the manufacturer may provide additional information to DOE for test set-up or testing by uploading a Portable Document Format (pdf) file as part of their certification report. DOE will provide this information to the test facility as long as the additional instructions do not conflict with the DOE test procedure or applicable DOE test procedure waiver. The test facility may not use any additional information during the testing process that has not been approved by DOE or shipped in the packaging of the unit. If needed, the test facility may request from DOE additional information on test set-up, installation, or testing. Upon receiving a request from the test facility for additional information, DOE may hold and coordinate a meeting with the manufacturer and the test facility to discuss the additional details needed for testing. Additional instructions may be given to the test facility as agreed upon by DOE and the manufacturer. At no time may a representative of the test facility discuss DOE verification testing with the manufacturer without a representative of the Department present. 10 CFR 429.70(c).

With respect to the AEDM verification process, the industry representatives within the Working Group expressed their desire for increased manufacturer involvement in this process. ([Docket No. EERE–2013–BT–NOC–0023], Department of Energy, Public Meeting Transcript, No. 0040 pp. 19–39; 59–65; 69–91; 103–105; 113; 117–119) Manufacturers expressed their collective belief that the complexity of some of this equipment will require manufacturer involvement in testing set-up even if such involvement is not necessary for field installation. ([Docket No. EERE–2013–BT–NOC–0023], Department of Energy, Public Meeting Transcript, No. 0040 pp. 15–39; 76–91; 98–99; 103–105; 117–126) As a compromise, the Working Group negotiated a solution that would allow manufacturers to elect to be present during the set-up for AEDM verification testing for 10% of their equipment

certified to DOE as compliant based upon an AEDM. Further, for equipment that is verification tested without a manufacturer representative witnessing test set-up that then fails to perform within the specified tolerances, DOE would automatically allow a re-test with the manufacturer present for set-up.

In the October 2013 AEDM SNOPR, DOE proposed to allow commercial HVAC, WH, and refrigeration equipment manufacturers to elect to have a manufacturer's representative on-site for the initial verification test for up to 10 percent of the manufacturer's certified basic models rated with an AEDM. Based on the comments DOE received regarding the October 2013 AEDM SNOPR proposal, DOE determined that the proposed witness testing provisions required clarification.

In response to the October 2013 AEDM SNOPR proposal, Hussmann noted that CRE manufacturers have concerns about the expertise of third-party test facilities to operate the CRE units under test or conduct the DOE test procedure. (Hussmann, No. 0079.1 at p. 2) At the May 28, 2013 Working Group negotiations meeting, DOE stated its view that third-party test facilities should have sufficient expertise in conducting the relevant test and that the Department's test procedures are already written in a manner that they should be able to be administered without the Department's or a manufacturer's supervision. ([Docket No. EERE–2013–BT–NOC–0023], Department of Energy, Public Meeting Transcript, No. 0041 pp. 34 and 36) However, DOE appreciates that commercial HVAC, WH and refrigeration equipment may have inherent complexities that justify additional manufacturer participation in the set-up of such a unit for verification testing. Thus, the Department agreed with the negotiated solution to this issue and is proposing regulations that allow such participation.

In order to clarify its October 2013 AEDM SNOPR proposal, the Department is revising the proposed regulatory text to state explicitly that manufacturers may elect to witness the test set-up. DOE did not intend in its October 2013 AEDM SNOPR proposal to allow manufacturers to witness the actual verification testing (e.g., the period during which the test facility is collecting data). As described in greater detail, adopting this clarification would better align with the Working Group's recommendation on this issue.

During the May 15, 2014 and May 28, 2014 Working Group meetings, manufacturer discussions of verification testing indicated that set-up may be the most problematic part of a verification test and manufacturers would be more confident with test results if they had a representative present at the set-up. AHRI opined that if a manufacturer was able to confirm that a unit was set up properly, then the manufacturer could determine if the test results were accurate or anomalous by reviewing the test data. ([Docket No. EERE–2013–BT–NOC–0023], AHRI, Public Meeting Transcript, No. 0040 pp. 104–105) Daikin suggested DOE adopt regulations to allow manufacturers to witness the set-up of a unit under test and clarified that the manufacturer should not witness actual testing of the unit. ([Docket No. EERE–2013–BT–NOC–0023], Daikin, Public Meeting Transcript, No. 0040 pp. 59 and 62–63) Northwest Energy Efficiency Alliance expressed the position that if equipment requires factory installation then the personnel that would ordinarily install the unit should install the unit at the test site. ([Docket No. EERE–2013–BT–NOC–0023], NEEA, Public Meeting Transcript, No. 0040 pp. 78–79) Hoshizaki remarked that the test set-up process can be lengthy, typically taking two days for commercial refrigeration equipment, and that there are many things that can go wrong. Hoshizaki added that being present during the test set-up allows manufacturers to address questions quickly and accurately. Hoshizaki also stated that they would at least like to be allowed to inspect the unit visually that arrives at the test lab to ensure it is in good condition because of the risk of damage in shipping and to be able to address any questions that arise. ([Docket No. EERE–2013–BT–NOC–0023], Hoshizaki, Public Meeting Transcript, No. 0040 pp. 84–85, 113, and 125) Hussman and Goodman both commented that slight variation in test set-up, like air flow settings or air sampler location, could impact test results. ([Docket No. EERE–2013–BT–NOC–0023], Hussman, Public Meeting Transcript, No. 0040 p. 20; [Docket No. EERE–2013–BT–NOC–0023], Goodman, Public Meeting Transcript, No. 0040 p. 22) In response to Hussman's and Goodman's comments, Lochinvar supported having a manufacturer's representative present at the test facility to address these concerns. ([Docket No. EERE–2013–BT–NOC–0023], Lochinvar, Public Meeting Transcript, No. 0040 p. 23) Hussman stated that manufacturers should be given the option to be present at the third-party test facility and make sure the set-up is correct. ([Docket No. EERE–2013–BT–NOC–0023], Hussman, Public Meeting Transcript, No. 0041 p. 19) Rheem commented that to conduct assessment tests efficiently then the manufacturer should at least be present for the set-up and start-up of the unit. ([Docket No. EERE–2013–BT–NOC–0023], Rheem, Public Meeting Transcript, No. 0041 pp. 41–42)

Based on comments made by the manufacturers during the negotiation public meetings, DOE's understanding is that the intent of the Working Group was to allow manufacturers to be on-site solely for the set-up of the verification test. In today's notice, DOE is proposing regulatory text that allows manufacturers to elect, as part of the certification of that basic model, to have the opportunity to witness the test set-up. A manufacturer may elect to witness the test set-up for the initial verification test for up to 10 percent of the manufacturer's certified basic models rated through the use of an AEDM. That would mean in those instances where DOE conducts a verification test on a basic model that a manufacturer elected to witness, DOE would alert the manufacturer to the basic model's selection for verification testing and provide the manufacturer with the opportunity to witness the set-up of the unit prior to test.

DOE is also clarifying that the assessment or enforcement testing of variable refrigerant flow (VRF) systems is governed by the rules in 10 CFR 431.96(f). These systems would not be subject to the requirements proposed in today's rulemaking. While DOE's regulations proposed in the October 2013 AEDM SNOPR may have been unclear in this regard, the public meeting transcripts show that VRF systems should be excluded from the verification witness testing proposal. Mitsubishi requested that DOE add a clause to the presentation summarizing the Working Group's proposals that stated that VRF systems should follow the procedures already codified in the CFR. ([Docket No. EERE–2013–BT–NOC–0023], Mitsubishi, Public Meeting Transcript, No. 0040 p. 117) DOE agreed to that request. ([Docket No. EERE–2013–BT–NOC–0023], Department of Energy, Public Meeting Transcript, No. 0040 pp. 117)

One interested party commented on the potential for logistical problems in arranging to have a manufacturer's representative on-site for verification testing. Zero Zone commented that a manufacturer may not be able to witness the initial verification test unless it knows in advance which units will be tested. (Zero Zone, No. 0077 at p. 3) To address Zero Zone's concern, the Department is proposing the following scenarios for notifying the manufacturer if DOE conducts AEDM verification

testing on a basic model for which a manufacturer elected to witness the test set-up. If the unit is obtained through retail channels, DOE proposes to notify the manufacturer of the basic model's selection for testing and provide the manufacturer the option to be present for test set-up once the unit has arrived at the test laboratory and is scheduled to be tested. If the manufacturer does not respond within five calendar days, the manufacturer would waive the option to be present for test set-up, and DOE would then proceed with the test set-up without a manufacturer's representative present. If DOE has obtained a unit directly from the manufacturer, under today's proposed approach, DOE would provide the manufacturer with the option to be present for test set-up at the time the unit is ordered. DOE would then specify the date (not less than five calendar days) by which the manufacturer would notify DOE whether the manufacturer chooses to have a representative present. A failure to notify DOE by the date specified would be treated by DOE as a waiver of the manufacturer's option to be present for test set-up, and DOE would then proceed with the test set-up without a manufacturer's representative present. DOE also notes that any time a manufacturer's representative requests to be on-site for the test set-up, a DOE representative would also be present at the third-party test facility. Additionally, 10 CFR 429.70(c)(5)(iv)(A) would continue to apply prior to, during and after the manufacturer's representative is on site; that is, the manufacturer's representative cannot communicate with a third-party test facility regarding verification testing without the DOE representative present.

In response to the October 2013 SNOPR, Hoshizaki disagreed with the proposed requirement that up to 10 percent of a manufacturer's certified basic models be subjected to witness testing because the affected units are so complex that slight changes could result in separate basic models. Instead, Hoshizaki suggested DOE collaborate with existing bodies that test annually like the EPA's ENERGY STAR program. (Hoshizaki, No. 0087 at p. 1) The Department reads Hoshizaki's comment as expressing concern with the number of basic models that would be eligible for witness testing. In today's notice, DOE proposes to maintain that manufacturers may select up to 10 percent of its certified basic models rated with an AEDM because this threshold was negotiated as an acceptable amount by participants in the Working Group. DOE agreed that this level was not overly burdensome for the Department while increasing manufacturer involvement in the verification process. DOE notes that manufacturers are not required to select 10 percent of eligible basic models and that manufacturers can decline to attend the test set-up when notified. DOE also notes that the 10 percent is a limit on how many basic models a manufacturer may pre-select for witnessing test set-up; it is not an indication that DOE will test 10 percent of that manufacturer's basic models.

The Department is also proposing a framework to address a situation where a manufacturer selects more than 10 percent of its certified basic models rated with an AEDM. At the time DOE selects a basic model for testing, DOE will review the certification submissions from the manufacturer to determine if the manufacturer has indicated that it wants to be present for testing of the selected basic model. DOE will also verify that the manufacturer has not selected more than 10 percent of the manufacturer's certified basic models rated with an AEDM. If DOE discovers that the manufacturer has exceeded the 10 percent limit, DOE will notify the manufacturer of this fact and deny its request to be present for the testing of the selected basic model. The manufacturer must update its certification submission to ensure it has selected no more than 10 percent of the manufacturer's certified basic models rated with an AEDM to witness the test set-up for any future selections.

In the October 2013 AEDM SNOPR, DOE proposed that the 10 percent requirement would apply to all of the basic models certified by a given manufacturer using an AEDM no matter how many AEDMs a manufacturer has used to develop its ratings. DOE proposed that it would perform testing without a manufacturer's representative present for each basic model DOE selects for assessment testing unless either: (1) The manufacturer has elected to have the opportunity to witness the test set-up as part of its allocated 10 percent; or (2) the manufacturer requires the basic model to be started only by a factory-trained installer per the installation manual instructions. For the basic models for which a manufacturer requested to witness the initial verification test set-up, the manufacturer would be unable to request that the unit be retested. The results from this initial test would be used to make a definitive determination regarding the validity of the basic model's rating. For those basic models that are initially tested without the manufacturer present for test set-up, a manufacturer would be automatically eligible to request a retest for those basic models where the initial results indicate a potential rating issue. See 78 FR 62472, 62476. DOE is retaining these proposals.

The Department requests comment on its proposed regulations to allow a manufacturer's representative on-site to witness the test set-up for the initial verification test for up to 10 percent of the manufacturer's certified basic models rated with an AEDM.

DOE is also proposing to amend its regulations to provide that information necessary for testing of certain products (such as the override code for controls that would otherwise prevent the completion of testing in accordance with the applicable DOE test procedure) must accompany the certification submission for a basic model of those products. DOE notes that, under this proposal, failure to provide this information would preclude a manufacturer being present for testing of a basic model of its product. If, in the course of testing a selected basic model, DOE discovers that the necessary information for completing the test has not been provided, DOE will contact the manufacturer to obtain that information and complete the testing. However, as DOE is proposing to amend its regulations to make clear the information required to be submitted as part of a certification report includes the equipment-specific, supplemental information necessary to operate the basic model, failure to provide such information would be a prohibited act as described at 10 CFR 429.102(a)(1), subject to the maximum civil penalty described at 10 CFR 429.120.

Finally, DOE is proposing to clarify its treatment of private model numbers under 10 CFR 429.7(b)(3). In the negotiated rulemaking, the working group agreed that, in limited circumstances, manufacturers should be able to identify when disclosure of an individual model number would reveal confidential business information and that, in those instances, DOE should treat the individual model number as confidential. It has recently come to DOE's attention that, as drafted, the language at 429.7 may permit a much broader range of model numbers to be identified as ''private'' than had been intended, which would result in many more models not being published in DOE's public Compliance Certification database. Specifically, the current language could be interpreted to permit a manufacturer to mark as ''private'' any model number that is not available in public marketing materials. Accordingly, DOE is proposing to revise

the regulatory text to better reflect the negotiated position of the working group. DOE requests comment regarding this proposed revision.

III. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget has determined that test procedure rulemakings do not constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order 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 the preparation of an initial regulatory flexibility analysis (RFA) 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 DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site: *http://www.energy.gov/sites/prod/files/gcprod/documents/eo13272.pdf*

DOE reviewed the proposed requirements in today's SNOPR under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. As discussed in more detail below, DOE found that because the provisions of this SNOPR will not result in increased testing and/or reporting burden. Accordingly, manufacturers will not experience increased financial burden as a result of this proposed rulemaking.

The SNOPR proposes to clarify how DOE intends to exercise its authority to validate AEDM performance and verify the performance of commercial HVAC, WH, and refrigeration equipment certified using an AEDM. Specifically, DOE is proposing to allow representatives of commercial HVAC, WH, and refrigeration equipment manufacturers to witness the test set-up for DOE-initiated verification testing for up to 10 percent of a manufacturer's basic models certified to the Department and that are rated with an AEDM. The selection of basic models and the decision to witness the test set-up for verification testing is at the discretion of the manufacturer. Thus, because these proposed changes would apply irrespective of a manufacturer's size and would provide these entities with added flexibility to witness the testing set-up of their equipment, DOE certifies that this proposed rulemaking, if promulgated, would not have a significant impact on a substantial number of small entities.

C. Review Under the Paperwork Reduction Act

Manufacturers of the covered equipment addressed in today's SNOPR must certify to DOE that their equipment comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their equipment according to the applicable DOE test procedures for the given equipment type, including any amendments adopted for those test procedures, or use the appropriate AEDMs to develop the certified ratings of the basic models. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including the equipment at issue in this proposed rule. (76 FR 12422 (March 7, 2011)). The collection-of-information requirement for these certification and recordkeeping provisions is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB Control Number 1910–1400. Public reporting burden for the certification is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act

DOE has determined that this proposed rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this SNOPR is proposing changes to DOE's verification testing regulations so it would not affect the amount, quality or distribution of energy usage, and, therefore, would not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A6 under 10 CFR part 1021, subpart D. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

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 has examined this SNOPR and has determined that it would 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. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of today's proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 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; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) 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 sections 3(a) and 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 SNOPR 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) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). 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 *www.gc.doe.gov*. DOE examined today's SNOPR according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year. Accordingly, these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 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 SNOPR 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

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), that this proposed regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. 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 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed the SNOPR 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

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 OMB, 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.

The SNOPR would allow manufacturers of commercial HVAC, WH, and refrigeration equipment the opportunity to witness the set-up DOE verification testing for up to 10 percent of basic models rated with an AEDM and is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition. Today's proposed rule to amend regulations relating to the verification test of commercial HVAC, WH, and refrigeration equipment rated with an AEDM does not propose the use of any commercial standards.

IV. Public Participation

Submission of Comments

DOE will accept comments, data, and information regarding the proposed rule no later than the date provided at the beginning of this notice. Comments, data, and information submitted to

DOE's email address for this rulemaking should be provided in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format. Interested parties should avoid the use of special characters or any form of encryption, and wherever possible, comments should include the electronic signature of the author. Absent an electronic signature, comments submitted electronically must be followed and authenticated by submitting a signed original paper document to the address provided at the beginning of this notice. Comments, data, and information submitted to DOE via mail or hand delivery/courier should include one signed original paper copy. No telefacsimiles (faxes) will be accepted.

According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: one copy of the document including all the information believed to be confidential and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination as to the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items, (2) whether and why such items are customarily treated as confidential within the industry, (3) whether the information is generally known by or available from other sources, (4) whether the information has previously been made available to others without obligation concerning its confidentiality, (5) an explanation of the competitive injury to the submitting person which would result from public disclosure, (6) a date upon which such information might lose its confidential nature due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this supplemental notice of proposed rulemaking.

List of Subjects in 10 CFR Part 429

Administrative practice and procedure, Energy conservation, Reporting and recordkeeping requirements.

Issued in Washington, DC, on September 18, 2014.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE proposes to amend part 429 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 429—CERTIFICATION, COMPLIANCE AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Amend § 429.7 by removing the words ''it is'' from the introductory text of paragraph (b) and by revising paragraph (b)(3) to read as follows:

§ 429.7 Confidentiality.

* * * * *

(b) * * *

(3) Disclosure of the individual, manufacturer model number would reveal confidential business information as described at 10 CFR 1004.11—in which case, under these limited circumstances, a manufacturer may identify the individual manufacturer model number as a private model number on a certification report submitted pursuant to § 429.12(b)(6).

* * * * *

■ 3. Section 429.41 is amended by revising paragraph (b)(4) to read as follows:

§ 429.41 Commercial warm air furnaces.

* * * * *

(b) * * *

(4) Pursuant to § 429.12(b)(13), a certification report may include supplemental testing instructions in PDF format. If necessary to run a valid test, the equipment-specific, supplemental information must include any additional testing and testing set up instructions (e.g., specific operational or control codes or settings), which would be necessary to operate the basic model under the required conditions specified by the relevant test procedure. A manufacturer may also include with a certification report other supplementary items in PDF format (e.g., manuals) for DOE consideration in performing testing under subpart C of this part.

■ 4. Section 429.42 is amended by revising paragraph (b)(4) to read as follows:

§ 429.42 Commercial refrigerators, freezers, and refrigerator-freezers.

* * * * *

(b) * * *

(4) Pursuant to § 429.12(b)(13), a certification report must include supplemental information submitted in PDF format. The equipment-specific, supplemental information must include any additional testing and testing set up instructions (e.g., charging instructions) for the basic model; identification of all special features that were included in rating the basic model; and all other information (e.g., any specific settings or controls) necessary to operate the basic model under the required conditions specified by the relevant test procedure. A manufacturer may also include with a certification report other supplementary items in PDF format (e.g., manuals) for DOE consideration in performing testing under subpart C of this part.

■ 5. Section 429.43 is amended by revising paragraph (b)(4) to read as follows:

§ 429.43 Commercial heating, ventilating, air conditioning (HVAC) equipment.

* * * * *

(b) * * *

(4) Pursuant to § 429.12(b)(13), a certification report must include supplemental information submitted in PDF format. The equipment-specific, supplemental information must include any additional testing and testing set up instructions (e.g., charging instructions) for the basic model; identification of all special features that were included in rating the basic model; and all other information (e.g. operational codes or component settings) necessary to operate the basic model under the required conditions specified by the relevant test procedure. A manufacturer may also include with a certification report other supplementary items in PDF format (e.g., manuals) for DOE consideration in performing testing under subpart C of this part. The equipment-specific, supplemental information must include at least the following:

* * * * *

■ 6. Section 429.44 is amended by revising paragraph (b)(4) to read as follows:

§ 429.44 Commercial water heating equipment.

* * * * *

(b) * * *

(4) Pursuant to § 429.12(b)(13), a certification report may include supplemental testing instructions in PDF format. If necessary to run a valid test, the equipment-specific,

supplemental information must include any additional testing and testing set up instructions (e.g., whether a bypass loop was used for testing) for the basic model and all other information (e.g. operational codes or overrides for the control settings) necessary to operate the basic model under the required conditions specified by the relevant test procedure. A manufacturer may also include with a certification report other supplementary items in PDF format (e.g. manuals) for DOE consideration in performing testing under subpart C of this part.

* * * * *

■ 7. Section 429.60 is amended by revising paragraph (b)(4) to read as follows:

§ 429.60 Commercial packaged boilers.

* * * * *

(b) * * *

(4) Pursuant to § 429.12(b)(13), a certification report may include supplemental testing instructions in PDF format. If necessary to run a valid test, the equipment-specific, supplemental information must include any additional testing and testing set up instructions (e.g., specific operational or control codes or settings), which would be necessary to operate the basic model under the required conditions specified by the relevant test procedure. A manufacturer may also include with a certification report other supplementary items in PDF format (e.g. manuals) for DOE consideration in performing testing under subpart C of this part.

* * * * *

■ 8. Section 429.70 is amended by revising paragraph (c)(5)(iii) to read as follows:

§ 429.70 Alternative methods for determining energy efficiency and energy use.

* * * * *

(c) * * *

(5) * * *

(iii) *Manufacturer participation.* (A) Except when testing variable refrigerant flow systems (which are governed by the rules found at § 431.96(f)), testing will be completed without a manufacturer representative on-site. In limited instances further described in paragraph (c)(5)(iii)(B) of this section, a manufacturer and DOE representative may be present to witness the test set-up.

(B) A manufacturer's representative may request to be on-site to witness the test set-up if:

(*1*) The installation manual for the basic model specifically requires it to be started only by a factory-trained installer; or

(*2*) The manufacturer has elected, as part of the certification of that basic model, to have the opportunity to witness the test set-up. A manufacturer may elect to witness the test set-up for the initial verification test for no more than 10 percent of the manufacturer's certified basic models rated with an AEDM. The 10-percent limit applies to all of the eligible basic models certified by a given manufacturer no matter how many AEDMs a manufacturer has used to develop its ratings. A manufacturer must identify the basic models it wishes to witness as part of its certification report(s) prior to the basic model being selected for verification testing.

(*3*) In those instances in which a manufacturer has not provided the required information as specified in § 429.12(b)(13) for a given basic model that has been rated and certified as compliant with the applicable standards, a manufacturer is precluded from witnessing the testing set up for that basic model.

(C) A DOE representative will be present for the test set-up in all cases where a manufacturer representative requests to be on-site for the test set-up. The manufacturer's representative cannot communicate with a lab representative outside of the DOE representative's presence.

(D) If DOE has obtained a unit for test through retail channels that meets either of the conditions in paragraph (c)(5)(iii)(B) of this section, DOE will notify the manufacturer of the basic model's selection for testing and that the manufacturer may have a representative present for the test set-up. If the manufacturer does not respond within five calendar days of receipt of that notification, the manufacturer waives the option to be present for test set-up, and DOE will proceed with the test set-up without a manufacturer's representative present.

(E) If DOE has obtained a unit for test directly from the manufacturer that meets either of the conditions in paragraph (c)(5)(iii)(B) of this section, DOE will notify the manufacturer of the option to be present for the test set-up at the time the unit is purchased. DOE will specify the date (not less than five calendar days) by which the manufacturer must notify DOE whether a manufacturer's representative will be present. If the manufacturer does not notify DOE by the date specified, the manufacturer waives the option to be present for the test set-up, and DOE will proceed with the test set-up without a manufacturer's representative present.

(F) DOE will review the certification submissions from the manufacturer that were on file as of the date DOE purchased a basic model (under paragraph (c)(5)(iii)(D) of this section) or the date DOE notifies the manufacturer that the basic model has been selected for testing (under paragraph (c)(5)(iii)(E) of this section) to determine if the manufacturer has indicated that it intends to witness the test set-up of the selected basic model. DOE will also verify that the manufacturer has not selected more than 10 percent of the manufacturer's certified basic models rated with an AEDM. If DOE discovers that the manufacturer has selected more than 10 percent, DOE will notify the manufacturer of this fact and deny its request to be present for the test set-up of the selected basic model. The manufacturer must update its certification submission to ensure it has selected no more than 10 percent of the manufacturer's certified basic models rated with an AEDM to be present at set-up for future selections.

(G) If DOE determines, pursuant to paragraph (c)(5)(ii) of this section, that the model should be tested at the manufacturer's facility, a DOE representative will be present on site to observe the test set-up and testing with the manufacturer's representative. All testing will be conducted at DOE's direction, which may include DOE-contracted personnel from a third-party lab, as well as the manufacturer's technicians.

(H) As further explained in paragraph (c)(5)(v)(B) of this section, if a manufacturer's representative is present for the initial test set-up for any reason, the manufacturer forfeits any opportunity to request a retest of the basic model. Furthermore, if the manufacturer requests to be on-site for test set-up pursuant to paragraph (c)(5)(iii)(B) of this section but is not present on site, the manufacturer forfeits any opportunity to request a retest of the basic model.

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[FR Doc. 2014–22890 Filed 9–25–14; 8:45 am]

BILLING CODE 6450–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

18 CFR Part 806

Review and Approval of Projects

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: This document contains proposed rules that would amend the regulations of the Susquehanna River