

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF ENERGY

### 10 CFR Part 430

[Docket No. EERE-2016-BT-TP-0037]

RIN 1904-AD74

#### Energy Conservation Program: Test Procedures for Integrated Light-Emitting Diode Lamps

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** On July 1, 2016, the U.S. Department of Energy (DOE) published a final rule adopting a test procedure for integrated light-emitting diode (LED) lamps (hereafter referred to as “LED lamps”) to support the implementation of labeling provisions by the Federal Trade Commission, as well as the ongoing general service lamps rulemaking, which includes LED lamps. This notice of proposed rulemaking (NOPR) proposes to amend the LED lamps test procedure by allowing for time to failure measurements to be taken at elevated temperatures.

**DATES:** DOE will accept comments, data, and information regarding this NOPR no later than December 5, 2016. See section V, “Public Participation,” for details.

**ADDRESSES:** Any comments submitted must identify the Test Procedure NOPR for Integrated LED Lamps, and provide docket number EERE-2016-BT-TP-0037 and/or regulatory information number (RIN) 1904-AD74. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the instructions for submitting comments.

2. *Email:* [LEDLamps2016TP0037@ee.doe.gov](mailto:LEDLamps2016TP0037@ee.doe.gov). Include the docket number EERE-2016-BT-TP-0037 and/or RIN 1904-AD74 in the subject line of the message.

3. *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE-2J,

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.

4. *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L’Enfant Plaza SW., Suite 600, Washington, DC, 20024. Telephone: (202) 586-6636. 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 V of this NOPR, “Public Participation.”

**DOCKET:** The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at [www.regulations.gov](http://www.regulations.gov). All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket Web page can be found at [https://www1.eere.energy.gov/buildings/appliance\\_standards/standards.aspx?productid=19](https://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=19). The docket 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](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Ms. Lucy deButts, 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. Telephone: (202) 287-1604. Email: [ApplianceStandardsQuestions@ee.doe.gov](mailto:ApplianceStandardsQuestions@ee.doe.gov).

Ms. Celia Sher, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue SW., Washington, DC, 20585-0121. Telephone: (202) 287-6122. Email: [Celia.Sher@hq.doe.gov](mailto:Celia.Sher@hq.doe.gov).

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#### I. Authority and Background

Title III of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6291, *et seq.*; “EPCA” or “the Act”) sets forth a variety of provisions designed to improve energy efficiency.<sup>1</sup> Part B of title III, which for editorial reasons was redesignated as Part A upon incorporation into the U.S. Code (42 U.S.C. 6291-6309, as codified), establishes the “Energy Conservation Program for Consumer Products Other Than Automobiles.” These consumer products include integrated light-emitting diode (LED) lamps, the subject of this notice of proposed rulemaking (NOPR).

Under EPCA, the energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. The testing requirements consist of test procedures that manufacturers of covered products must use as the basis for (1) certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA (42

<sup>1</sup> All references to EPCA refer to the statute as amended through the Energy Efficiency Improvement Act of 2015, Public Law 114-11 (April 30, 2015).

U.S.C. 6295(s)), and (2) making representations about the energy use or efficiency of those products (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the products comply with any relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA provides, in relevant part, that any test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and shall not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

In addition, if DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6293(b)(2)) Finally, in any rulemaking to amend a test procedure, DOE must determine to what extent, if any, the proposed test procedure would alter the measured energy efficiency of any covered product as determined under the existing test procedure. (42 U.S.C. 6293(e)(1)) If DOE determines that the amended test procedure would alter the measured efficiency of a covered product, DOE must amend the applicable energy conservation standard accordingly. (42 U.S.C. 6293(e)(2))

DOE published a final rule in the **Federal Register** on July 1, 2016 (hereafter the “July 2016 LED TP final rule”), which adopted test procedures for integrated LED lamps in Appendix BB to support the implementation of labeling provisions by the Federal Trade Commission, as well as the ongoing general service lamps rulemaking, a category of lamps that includes LED lamps. 81 FR at 43404. In this notice, DOE proposes to amend the test procedures for integrated LED lamps.

## II. Synopsis of the Notice of Proposed Rulemaking

In this NOPR, DOE proposes to amend the test procedures for integrated LED lamps with regard to the time to failure test method. Based on stakeholder feedback since the publication of the July 2016 LED TP final rule, DOE is proposing to allow time to failure measurements collected for DOE’s LED lamps test procedure to be taken at elevated temperatures.

Any amended test procedure adopted in this rulemaking will be effective as the applicable DOE test procedure beginning 30 days after publication of a final rule in the **Federal Register**. Representations of energy use or energy efficiency must be based on testing in accordance with this rulemaking, if adopted, beginning 180 days after the publication of a test procedure final rule. DOE notes that testing done in accordance with the current test procedure would also be in accordance with the amended test procedure proposed here.

## III. Discussion

### A. Scope of Applicability

EPCA defines an LED as a p-n junction<sup>2</sup> solid-state device, the radiated output of which, either in the infrared region, visible region, or ultraviolet region, is a function of the physical construction, material used, and exciting current of the device. (42 U.S.C. 6291(30)(CC)) In the July 2016 LED TP final rule, DOE stated that the rulemaking applied to LED lamps that met DOE’s adopted definition of an integrated LED lamp, which was based on the term as defined by ANSI/IES RP-16-2010, “Nomenclature and Definitions for Illuminating Engineering,” and adopted as follows:

*Integrated light-emitting diode lamp* means an integrated LED lamp as defined in ANSI/IES RP-16 (incorporated by reference; see § 430.3).

The ANSI/IES standard defines an integrated LED lamp as an integrated assembly that comprises LED packages (components) or LED arrays (modules) (collectively referred to as an LED source), an LED driver, an ANSI standard base, and other optical, thermal, mechanical and electrical components (such as phosphor layers, insulating materials, fasteners to hold components within the lamp together, and electrical wiring). The LED lamp is intended to connect directly to a branch circuit through a corresponding ANSI standard socket. 81 FR 43403, 43405 (July 1, 2016). This NOPR proposes to amend the test procedures for integrated LED lamps.

### B. Proposed Amendment To Approach for Determining Lifetime

In the July 2016 LED TP final rule, DOE adopted test procedures, located in appendix BB to subpart B of 10 CFR part 430, for measuring and projecting time

to failure of LED lamps based on lumen maintenance data. The adopted test procedures were largely based on the industry standards IES LM-84-14, “Approved Method: Measuring Luminous Flux and Color Maintenance of LED Lamps, Light Engines, and Luminaires,” and IES TM-28-14, “Projecting Long-Term Luminous Flux Maintenance of LED Lamps and Luminaires,” for the applicable lumen maintenance measurements and time to failure projection methods, with some modifications. 81 FR 43403, 43427–43428 (July 1, 2016). IES LM-84-14 provides a method for lumen maintenance measurement of integrated LED lamps and specifies the operational and environmental conditions during testing such as operating cycle, ambient temperature, airflow, and orientation. Lumen maintenance is the measure of lumen output after an elapsed operating time, expressed as a percentage of the initial lumen output. IES TM-28-14 provides methods for projecting the lumen maintenance of integrated LED lamps depending on the available data and test duration. The provided methods include projecting time to failure using multiple lumen maintenance measurements collected over a period of time, rather than a single measurement at the end of the test duration. 81 FR at 43409 (July 1, 2016). The adopted test procedure requires that the projection calculation be completed for each individual LED lamp and the projected time to failure values then be used to calculate the lifetime of the sample using the prescribed methods. 81 FR at 43414 (July 1, 2016). The lumen maintenance measurements used in the projection are to be taken at an ambient temperature of 25 °C ± 5 °C.

Since the publication of the July 2016 LED TP final rule, DOE received a request from the National Electrical Manufacturers Association (NEMA) to approve the use of test results from the Elevated Temperature Life Test<sup>3</sup> contained in the ENERGY STAR Program Requirements Product Specification for Lamps (Light Bulbs) Eligibility Criteria Version 2.0 (hereafter “ENERGY STAR Lamps Specification V2.0”)<sup>4</sup> in place of the test method for measuring lumen maintenance and time to failure in DOE’s LED lamps test

<sup>3</sup> The ENERGY STAR Elevated Temperature Life Test Method can be found at <https://www.energystar.gov/sites/default/files/ENERGY%20STAR%20Elevated%20Temperature%20Life%20Test%20Method.pdf>.

<sup>4</sup> “ENERGY STAR Program Requirements: Product Specification for Lamps (Light Bulbs) Version 2.0.” U.S. Environmental Protection Agency, February 2016.

<sup>2</sup> P-n junction is the boundary between p-type and n-type material in a semiconductor device, such as LEDs. P-n junctions are diodes, active sites where current can flow readily in one direction but not in the other direction.

procedure in order to reduce test burden. NEMA asserted that because the test conditions from the Elevated Temperature Life Test are more stringent, the test results, if any different, would be more conservative than if the lamps were tested according to the current DOE LED lamps test procedure. (NEMA, No. 48 at p. 1).

DOE agrees that the operating temperature test conditions specified in the ENERGY STAR Elevated Temperature Life Test will more negatively affect performance values than those prescribed in DOE's LED lamps test procedure since the Elevated Temperature Life Test requires testing of LED lamps at higher ambient temperatures. Specifically, the Elevated Temperature Life Test requires directional lamps with rated wattages less than or equal to 20 W to be tested at  $45\text{ }^{\circ}\text{C} \pm 5\text{ }^{\circ}\text{C}$ ; directional lamps with rated wattages greater than 20 W to be tested at  $55\text{ }^{\circ}\text{C} \pm 5\text{ }^{\circ}\text{C}$ ; and all other omnidirectional and decorative lamps to be tested at  $45\text{ }^{\circ}\text{C} \pm 5\text{ }^{\circ}\text{C}$ . DOE's test procedure requires operating temperature to be maintained at  $25\text{ }^{\circ}\text{C} \pm 5\text{ }^{\circ}\text{C}$ . The Elevated Temperature Life Test applies only to lamps that do not have a "not for use in totally enclosed or recessed luminaires" statement (or an equivalent statement) on the lamp label.

In addition to a difference in ambient temperature during lumen maintenance testing, ENERGY STAR's and DOE's test procedures also differ in how to determine the value of lifetime. ENERGY STAR's test procedure provides a method to confirm a manufacturer-declared lifetime value. It requires manufacturers to meet or exceed minimum lumen maintenance values at a specific test duration to be able to claim a certain maximum lifetime. For example, for a lamp to be certified with a lifetime of 25,000 hours, that lamp must achieve a minimum lumen maintenance of 91.8% after 6,000 hours of operation. DOE's test procedure for determining lifetime depends on the time to failure of individual units, which is determined by taking lumen maintenance measurements at multiple intervals and then calculating the time to failure. For example, after 6,000 hours of testing, manufacturers can use the specified method to project a lamp's time to failure value to be up to 36,000 hours. Lifetime is then determined by calculating the median time to failure of the sample (calculated as the arithmetic mean of the time to failure of the two middle sample units when the numbers are sorted in value order). This is consistent with the statutory definition of lifetime, which is described as the length of operating time of a statistically

large group of lamps between first use and failure of 50 percent of the group. 42 U.S.C. 6291(30)(P).

To maintain consistency with the statutory definition of lifetime, DOE is not allowing for an entire substitution of the ENERGY STAR lifetime test procedure in place of DOE's time to failure measurements. Instead, DOE is proposing in this NOPR to amend section 4.4.4 of appendix BB to allow time to failure testing to be conducted at elevated temperatures above the current requirement, which stipulates to maintain ambient operating temperature at  $25\text{ }^{\circ}\text{C} \pm 5\text{ }^{\circ}\text{C}$ . Manufacturers would then have the flexibility to conduct the Elevated Temperature Life Test for ENERGY STAR, while also following the calculation method for DOE's LED lamps test procedure, and avoid test duplication. LED lamps are sensitive to changes in ambient temperature, generally performing less favorably at higher temperatures. DOE believes this proposed change will result in, if any difference, more conservative representations of lifetime.

DOE requests comment on the proposed amendment to the integrated LED lamps test procedure to allow testing for time to failure, as prescribed in section 4 of appendix BB to subpart B of 10 CFR part 430, to be conducted at elevated temperatures.

#### C. Effective and Compliance Dates

If adopted, the effective date for the proposed test procedure amendments would be 30 days after publication of the final rule in the **Federal Register**. Pursuant to EPCA, manufacturers of covered products must use the test procedure as the basis for determining that their products comply with any applicable energy conservation and for making representations about the efficiency of those products. (42 U.S.C. 6293(c); 42 U.S.C. 6295(s)) For those energy efficiency or consumption metrics covered by the DOE test procedure, manufacturers must make representations in accordance with the DOE test procedure beginning 180 days after publication of the final rule in the **Federal Register**.

#### IV. Procedural Issues and Regulatory Review

##### A. Review Under Executive Order 12866

The Office of Management and Budget (OMB) 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 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 (IRFA) 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://energy.gov/gc/office-general-counsel>.

DOE reviewed the amended test procedures for LED lamps proposed in this NOPR under the provisions of the Regulatory Flexibility Act (RFA) and the procedures and policies published on February 19, 2003. DOE certifies that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is set forth in the following paragraphs.

The Small Business Administration (SBA) considers a business entity to be a small business, if, together with its affiliates, it employs less than a threshold number of workers specified in 13 CFR part 121. These size standards and codes are established by the North American Industry Classification System (NAICS). Manufacturing of LED lamps is classified under NAICS 335110, "Electric Lamp Bulb and Part Manufacturing." The SBA sets a threshold of 1,250 employees or less for an entity to be considered as a small business for this category.

To estimate the number of companies that could be small businesses that sell LED lamps covered by this rulemaking, DOE conducted a market survey using publicly available information. DOE's research involved information from the Environmental Protection Agency's ENERGY STAR Certified Light Bulbs Database,<sup>5</sup> LED Lighting Facts

<sup>5</sup> ENERGY STAR Certified Light Bulbs Database, <https://www.energystar.gov/productfinder/product/certified-light-bulbs/results> (last accessed October 19, 2016).

Database,<sup>6</sup> previous rulemakings, individual company Web sites, SBA's database, and market research tools (e.g., Hoover's reports). DOE screened out companies that did not meet the definition of a "small business" or are completely foreign owned and operated. DOE identified approximately seven small businesses that maintain domestic production facilities for the integrated LED lamps covered by this rulemaking.

DOE notes that this proposed rule merely seeks to amend the existing LED test procedure in a way that would reduce test burden on manufacturers. The proposed amendment would reduce the instances in which two tests for lifetime must be conducted for the same lamp. In addition, the proposal is supported by industry, including NEMA. Manufacturers that would seek to test time to failure at elevated temperatures under the proposed amendment, if adopted, are likely to have previously accounted for testing costs associated with the ENERGY STAR program as these measurements are required to be reported to ENERGY STAR if manufacturers certify the lamps as meeting the program requirements. For manufacturers who do not test products at elevated temperatures, this proposed amendment presents no additional burden.

For these reasons, DOE tentatively concludes and certifies that the proposed amendment in this NOPR would not have a significant economic impact on a substantial number of small entities, and the preparation of an IRFA is not warranted. DOE will transmit the certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the SBA for review under 5 U.S.C. 605(b).

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

Manufacturers of LED lamps must certify to DOE that their products comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedures, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including LED lamps. (See generally 10 CFR part 429.) The collection-of-information requirement for the certification and recordkeeping 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 30 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 must 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 of 1969

In this proposed rule, DOE is proposing an amendment to the test procedure for LED lamps that will be used to support the ongoing general service lamps energy conservation standards rulemaking as well as the FTC's Lighting Facts labeling program. DOE has determined that this 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 proposed rule would amend the existing test procedure for integrated LED lamps without affecting the amount, quality or distribution of energy usage, and, therefore, will not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A5 under 10 CFR part 1021, subpart D, which applies to any rulemaking that interprets or amends an existing rule without changing the environmental effect of that rule. 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 proposed rule and has determined that it will 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 this 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, the proposed rule meets the relevant standards of Executive Order 12988.

<sup>6</sup> DOE's LED Lighting Facts Database, <http://www.lightingfacts.com/products> (last accessed October 19, 2016).

### *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 resulting 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://energy.gov/gc/office-general-counsel>. DOE examined this proposed rule 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, so 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 (Public Law 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This 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*

DOE has determined, under Executive Order 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights” 53 FR 8859 (March 18, 1988), that this regulation

would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

### *J. Review Under 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 this proposed rule 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 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 if the regulation is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This regulatory action to propose an amended test procedure for measuring the lumen maintenance and time to failure of LED lamps 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 (Public Law 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.

The proposed amendment to the test procedures for LED lamps in this NOPR does not incorporate any new standards that would require compliance under section 32(b) of the FEAA.

## **V. Public Participation**

### *A. Submission of Comments*

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this NOPR. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this NOPR.

*Submitting comments via regulations.gov.* The [regulations.gov](http://regulations.gov) Web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization

names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through regulations.gov cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that regulations.gov provides after you have successfully uploaded your comment.

*Submitting comments via email, hand delivery, or mail.* Comments and documents submitted via email, hand delivery, or mail also will be posted to regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

*Campaign form letters.* Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names

compiled into one or more PDFs. This reduces comment processing and posting time.

*Confidential Business Information.* 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 via email, postal mail, or hand delivery two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about 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) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

#### *B. Issues on Which DOE Seeks Comment*

Although comments are welcome on all aspects of this proposed rulemaking, DOE is particularly interested in comments on the proposed amendment to the integrated LED lamps test procedure to allow for testing to be conducted at elevated temperatures during time to failure tests as prescribed in section 4 of appendix BB to subpart B of 10 CFR part 430.

#### VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

#### List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business

information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Issued in Washington, DC on October 28, 2016.

**Kathleen B. Hogan,**

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

For the reasons stated in the preamble, DOE proposes to amend part 430 of Chapter II of Title 10, Code of Federal 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. Appendix BB to subpart B of part 430 is amended by revising the introductory note and section 4.4.4 to read as follows:

#### **Appendix BB to Subpart B of Part 430—Uniform Test Method for Measuring the Input Power, Lumen Output, Lamp Efficacy, Correlated Color Temperature (CCT), Color Rendering Index (CRI), Power Factor, Time to Failure, and Standby Mode Power of Integrated Light-Emitting Diode (LED) Lamps**

Note: On or after [Date 180 Days after Publication of Final Rule in the Federal Register], any representations made with respect to the energy use or efficiency of integrated light-emitting diode lamps must be made in accordance with the results of testing pursuant to this appendix.

\* \* \* \* \*

#### *4. Active Mode Test Method to Measure Time to Failure*

\* \* \* \* \*

#### *4.4. Operating Conditions and Setup Between Lumen Output Measurements*

\* \* \* \* \*

4.4.4. Ambient temperature conditions must be as described in section 4.4 of IES LM–84. Maintain the ambient temperature at 25 °C ± 5 °C or at a manufacturer-selected temperature higher than 25 °C with the same ± 5 °C tolerance.

\* \* \* \* \*

[FR Doc. 2016–26681 Filed 11–3–16; 8:45 am]

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