4. On page 1764, in the second column, the last complete sentence in the column is corrected to read, ''New paragraph (c)(1) requires that potable water be used for ice, except that water and ice used for chilling may be reused in accordance with § 416.2(g), and new paragraph (c)(2)(i) requires that chilling equipment be operated in a manner consistent with applicable pathogen reduction performance standards and the establishment's HACCP plan.''

§ 381.1 [Corrected]

5. On page 1770, in the third column, in § 381.1, paragraph (b) is corrected by removing the paragraph designation ''(44)'' from the definition for ready-to-cook poultry.

§ 381.65 [Corrected]

6. On page 1771, in the first column, in § 381.65, paragraph (e) is corrected and paragraph (f) is added, to read as follows:

* * * * *

(e) Poultry carcasses contaminated with visible fecal material shall be prevented from entering the chilling tank.

(f) Detached ova may be collected for human food and handled only in accordance with 9 CFR 590.44 and may leave the establishment only to be moved to an official egg product processing plant for processing. Ova from condemned carcasses must be condemned and treated as required in § 381.95.

§ 381.66 [Corrected]

7. On page 1771, in the second column, in § 381.66, the first sentence in paragraph (c)(1) is corrected to read as follows:

* * * * *

(c) * * *

(1) Only ice produced from potable water may be used for ice and water chilling, except that water and ice used for chilling may be reused in accordance with § 416.2(g). * * *

Done at Washington, DC: April 12, 2001.

Thomas J. Billy,

Administrator.

[FR Doc. 01–9495 Filed 4–16–01; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EE–RM–94–403]

RIN 1940–AB67

Office of Energy Efficiency and Renewable Energy; Energy Conservation Program for Consumer Products: Clothes Washer Energy Conservation Standards

AGENCY: Department of Energy (DOE).

ACTION: Final rule; denial of reconsideration and completion of regulatory review.

SUMMARY: In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001, (66 FR 7702) DOE temporarily delayed for 60 days (66 FR 8744, February 2, 2001) the effective date of appendix J to subpart B of 10 CFR part 430 in the final rule entitled ''Energy Conservation Program for Consumer Products: Clothes Washer Energy Conservation Standards'' published in the **Federal Register** on January 12, 2001 (66 FR 3314). By petition dated March 13, 2001, the Mercatus Center at George Mason University and the Competitive Enterprise Institute, on behalf of a variety of organizations purporting to represent consumer interests, petitioned for reconsideration of the final rule. DOE has considered the legal and policy arguments in the petition for reconsideration and has completed its review of the final rule. Having concluded that no further rulemaking action is warranted, DOE hereby denies the petition for reconsideration.

DATES: The April 13, 2001 effective date of the rule amending appendix J to subpart B of 10 CFR part 430 (66 FR 8744, February 2, 2001) is confirmed.

FOR FURTHER INFORMATION CONTACT: Jill Holtzman, Office of General Counsel, (202) 586–3410, *jill.holtzman@hq.doe.gov.* or Bryan Berringer, Office of Energy Efficiency and Renewable Energy, (202) 586–0371, *bryan.berringer@ee.doe.gov.* or Eugene Margolis, Office of General Counsel, (202) 586–9526, *eugene.margolis@hq.doe.gov.*

Issued in Washington, D.C. on April 12, 2001.

Spencer Abraham,

Secretary of Energy.

[FR Doc. 01–9568 Filed 4–13–01; 1:00 pm]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket N. EE–RM–97–900]

RIN 1904–AA76

Energy Conservation Program for Consumer Products: Energy Conservation Standards for Water Heaters

AGENCY: Department of Energy (DOE).

ACTION: Final rule; denial of reconsideration and completion of regulatory review.

SUMMARY: In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001, (66 FR 7702) DOE announced that it would be reviewing the rule entitled ''Energy Conservation Program for Consumer Products: Energy Conservation Standards for Water Heaters; Final Rule'' published in the **Federal Register** on January 17, 2001 (66 FR 4474) to determine whether further action is warranted. DOE has now completed its review of that regulation, and concludes that no further rulemaking action is required. The petitions for reconsideration filed by the Gas Appliance Manufacturers Association and the American Gas Association are denied.

DATES: The effective date of the rule remains January 20, 2004.

FOR FURTHER INFORMATION CONTACT: Jill Holtzman, (202) 586–3410, *jill.holtzman@hq.doe.gov* or Francine B. Pinto, (202) 586–7432, *francine.pinto@hq.doe.gov.*, Office of the General Counsel.

SUPPLEMENTARY INFORMATION: Pursuant to section 325 of the Energy Conservation and Policy Act (ECPA) (42 U.S.C. 6295), DOE published in the **Federal Register** a final amended energy conservation standard for residential water heaters. This final rule did not change the current efficiency levels for oil-fired and instantaneous gas and electric water heaters. The rule creates a new class for tabletop water heaters with no change in standards.

On February 2, 2001, in conformity with President Bush's Regulatory Review Plan, DOE announced that it would be reviewing the water heater rule to determine whether further action is warranted (66 FR 8745). Subsequently, the Gas Appliance Manufacturers Association (GAMA) and

the American Gas Association (AGA) filed petitions for reconsideration of the final rule. GAMA also petitioned the United States Court of Appeals for the Fourth Circuit for judicial review (42 U.S.C. 6306).

Further, a coalition of energy advocacy organizations, including utilities, regional and state agencies, environmental organizations, and organizations that develop and run energy-saving programs (hereinafter referred to as ''energy advocacy coalition''), submitted a letter on March 23, 2001, to the Secretary of Energy strongly opposing the GAMA petition for reconsideration and urging DOE to deny the GAMA petition. Two of the energy advocacy organizations, American Council for an Energy-Efficient Economy (ACEEE) and Natural Resources Defense Council (NRDC) intervened in the above-referenced court proceeding.

I. Introduction

The GAMA petition for reconsideration raised three major complaints on issues concerning venting problems, reduction of hot water/safety risk, and DOE's response to the Department of Justice's comment concerning the use of a sole source blowing agent. The AGA request for reconsideration only addressed venting and insulation issues.

The energy advocacy coalition gives several reasons why GAMA's petition should be rejected. They are: the issues have been fully discussed in the rulemaking proceeding and properly considered after opportunity for extensive comments; the record shows that GAMA's issues are overstated and have been adequately addressed; and there is no legal basis for reducing the standards. (Energy Advocacy Coalition Letter, at 6).

DOE today denies the GAMA and AGA petitions and concludes that no further rulemaking action is warranted. All of GAMA's and AGA's issues have been previously discussed in the record and fully resolved. This final rule is supported by the rulemaking record. The Technical Support Document (TSD) along with the preamble to the final rule describe the data and DOE's analysis of the data that supports the rule. The TSD is available for review at *http://www.eren.doe.gov/buildings/codes_standards/applbrf/waterheater.htm.*

This notice discusses the central issues raised by GAMA. The AGA petition raised the same issues.

II. Venting Problems

In its petition, GAMA claims that DOE's final rule will increase the recovery efficiency, increasing the risk of corrosion which reduces the margin of safety in either the vent connector or chimney. GAMA acknowledges that the risk can be avoided by installing a more expensive Type B vent connector. GAMA asserts that DOE has underestimated the number of households that will need a Type B vent connector. Furthermore, GAMA raises the concern that a significant number of consumers purchase residential gas-fired water heaters from the retail market without professional installation.

The standard does not specify the design or recovery efficiency of water heaters. It is a performance standard that requires a specific energy factor. However, for the purpose of our analysis, DOE assumed that the more efficient gas-fired water heaters would have a 78 percent recovery efficiency. In most applications, there is no safety problem with a 78 percent recovery efficiency (66 FR 4484; TSD, Chapter 3.4.3, pp. 17–20). In certain situations, a double wall, Type B vent connector is needed to prevent corrosion caused by condensation. The energy advocacy coalition states that the potential for condensation in water heating venting systems exists at efficiency levels higher than those set in the final rule (Energy Advocacy Coalition Letter, p. 2).

DOE analyzed the additional costs for Type B vent connectors to determine the economic impact on consumers. DOE estimated that a Type-B vent connector may be needed in 11 percent of the homes with 78 percent recovery efficiency based on estimates from a Gas Research Institute Study using AGA survey data, data from the Energy Information Administration's Residential Energy Conservation Survey, and data from high efficiency gas-fired water heaters installed in the Northwest. As discussed in the final rule, DOE assumed that vent connectors would be needed in climates exceeding 5,000 Heating Degree Days (HDD), where the water heater was installed in the conditioned space, since the combination of weather and design would increase the possibility of condensation of combustion gases occurring either in the vent or chimney. We used 5,000 HDD as a conservative approach since no incidence of vent system failure is associated with the installation of high efficiency gas-fired water heaters in the Northwest, even in climates as cold or colder than 7,000 HDD (66 FR 4485; TSD, Chapter 3.4.3.2, pg 19). Some commenters stated that DOE was overestimating the problem and should add no extra cost for Type B vent connectors. DOE's conclusion that the amended energy conservation standard for gas-fired water heaters is economically justified is not changed by the additional costs for Type B vent connectors.

In response to GAMA's concern regarding proper installation for gas-fired water heaters, we stated in the final rule that there is no safety risk if the venting system is correctly installed. We also stated that manufacturers should provide installation instructions for Type B vents, and installers should follow the National Fuel Gas Code requirements and local codes for safe installation of gas-fired water heaters (66 FR 4485). The energy advocacy coalition believes that if this is a significant problem, consumers should not be installing gas water heaters. This rule does not set standards for the installation of water heaters (Energy Advocacy Coalition Letter, p. 3).

In addressing venting safety in the final rule, DOE determined there are water heaters currently on the market that can meet the new standards without reducing the margin of safety. A review of the GAMA April 2000, *Consumer's Certified Directory of Certified Efficiency Ratings for Heating and Water Heating Equipment* shows a number of existing models with a recovery efficiency of 76 percent that meet the standard adopted by DOE (66 FR 4484). The energy advocacy coalition states that 24 percent of existing water heaters can meet the new standard at recovery efficiencies of 76 percent (today's norm).

In light of the above discussion on the cost, safety, and installation of higher recovery efficiency gas-fired water heaters, DOE concludes that GAMA has not presented a basis for further rulemaking action with regard to the venting issue.

III. Reduction of Available Hot Water/Safety Risk

In its petition for reconsideration, GAMA alleges that it did not have the opportunity to comment on DOE's solution addressing size constrained water heater applications. GAMA also claims that DOE's method for addressing size constrained water heaters will increase the risk of hot water scald injuries for some consumers and their families.

During the proceeding, DOE received comments that in many cases consumers will demand water heaters with the same capacity and that will fit in the same space. In order to fit in the

same space, some water heaters will have smaller tanks because of thicker insulation to meet the amended standard. Therefore, to compensate for the reduction in hot water, DOE sought comment in the preliminary workshops and in the proposed rule on alternative technologies that would reduce the effects of smaller water heaters (65 FR 25077, 25084).

In response to DOE's request for information in the proposed rule, Battelle submitted a comment suggesting an increased thermostat set point, the addition of a tempering valve, and the use of a smaller water heater to maintain the same energy content as the larger water heater it would replace (Battelle, No. 127, p. 12–16, Transcript, June 20, 2000, pp. 135–136). This solution is the least costly of several alternatives discussed in the Battelle report. GAMA, in its comment to the proposed rule, urged DOE to adopt Battelle's analysis that contained the solution used in the final rule (GAMA, No. 160, p. 4).

DOE accounted for additional costs for tempering valves in its life-cycle cost analysis (66 FR 4477 and TSD, Chapter 3, 3–21). These added costs for tempering valves did not change DOE's decision that the standard is economically justified. Moreover, since DOE's final rule adopted a solution for size constrained applications suggested during the proceeding that GAMA endorsed, there is no basis for GAMA's complaint that it did not have an opportunity to present its viewpoint on this issue.

With regard to GAMA's assertion that DOE's method for addressing size constrained applications will increase the risk of hot water scald injuries, DOE's final rule is a performance standard that does not mandate any action by manufacturers that would increase the risk of scalding. Tempering valves are used to address potential scalding problems. They are readily available in the market. If the replacement water heater is correctly installed with a tempering valve when the thermostat set point is above 140°F, there will be minimal risk of scalding injury (TSD, Chapter 3.4.4, pg 21). In DOE's view, the method for addressing size-constrained water heaters in the rule will not increase the risk of scalding to consumers and their families.

In light of the preceding discussion, DOE correctly used a solution presented in the record to address the issue of size constrained water heaters in the final rule.

IV. Alternative Insulation Blowing Agents

GAMA claims that DOE's analysis of insulation materials is deficient and unresponsive to Justice Department antitrust concerns. During the entirety of the rulemaking proceeding, there was significant discussion concerning which blowing agent would be available and could substitute for HFC–141b, the current blowing agent being used by the water heater industry that will be phased out by 2003. DOE's analysis in the proposed rule relied upon HFC–245fa, an alternative that is available from a single source. Manufacturers and the Justice Department were concerned that promulgating a standard based upon a blowing agent that is supplied by a sole source could adversely affect competition if it were the only blowing agent that could be used to meet the standard.

In response, DOE sought to determine whether there are alternative blowing agents available that manufacturers could use to meet the standard. We identified two alternatives, HFC-134a and pentane/cyclopentane. These had been previously discussed in the proposed rule. By determining through further analysis that at least two other blowing agents are available in the market with comparable performance and at approximately the same cost, DOE eliminated the concern that manufacturers must rely on a single blowing agent from a sole source supplier to meet the standard (TSD, Chapter 3.4, pg. 12).

The energy advocacy coalition notes that HFC–134a will be used by a major U.S. refrigerator manufacturer. They also state that pentane/cyclopentane is viable because many European factories have made the conversion and it is cheaper per water heater. They claim that these two alternative foam blowing agents will provide competitive pressure to the price of HFC-245fa (Energy Coalition Letter, pp. 4–5).

However, the industry asserts that DOE's analysis of alternative foam blowing agents is inadequate. Furthermore, GAMA alleges that DOE's final rule is not justified in claiming that water heaters using an HFC–134a insulation blowing agent can achieve the same energy factor as water heaters using HFC–245fa.

To the contrary, DOE believes its analysis is adequate to support DOE's finding that there are alternative blowing agents to HFC–245fa that are available to meet the new standard. DOE performed an engineering analysis which accounted for the energy efficiency performance, as well as manufacturers' costs and the retail prices and installation costs to consumers. This analysis shows that energy factors are the same for all three blowing agents and costs are within a few dollars of HFC–245fa. In the record supporting DOE's analysis, DOE show the cost/pound for several foam insulations, including HFC–245fa, HFC–134a, and pentane/cyclopentane. These costs were used in the analysis of the alternative blowing agents (TSD, Chapter 3.4, pg. 11–17 and TSD, Chapter 8.6, pp 83–85). The energy advocacy coalition states that it supports DOE's analysis of insulation cost and performance (Energy Advocacy Coalition Letter, p. 3–4).

GAMA believes that HFC–134a and HFC–245fa cannot achieve the same water heater performance at the same insulation thickness. As the final rule stated, although there is a 10 percent reduction in insulation effectiveness for HFC–134a, the energy factor of water heaters using HFC–134a is similar to those using HFC–245fa or pentane/cyclopentane as shown in our engineering analysis. This issue was discussed at a public workshop on November 10, 1998 (Transcript, No. 38, pp 14–15, 27–28). At that public workshop, the National Institute of Standards and Technology (NIST) presented the results of a study demonstrating that insulation has a small effect on water heater performance (energy factor). (Thermal Performance of Water Heaters Using Alternative Blowing Agents, Fanney and Zarr, November 10, 1998) NIST showed that even a large change in insulation effectiveness results in a small change in energy factor. In the presentation, NIST explained that when insulation effectiveness is reduced by 50 percent, the energy factor drops by .06 EF, a small reduction. Since HFC–134a is only 10 percent less effective than HFC–245fa, the resulting change in performance is minimal. In the engineering analysis, DOE accounts for the 10 percent reduction in insulation effectiveness which results in an energy factor of .90 EF for a 50 gallon electric water heater. (TSD, Chapter 8.6, p.83–84). The engineering analysis also shows that water heaters insulated with HFC–245fa and pentane/cyclopentane have a .90EF at the same insulation thickness. Therefore, DOE correctly concluded that HFC–134a performs comparably to HFC–245fa and pentane/cyclopentane.

Finally, GAMA claims that the extent of DOE's analysis of the alternative blowing agents was not equal to the analysis of HFC–245fa. DOE made its decision to only conduct additional

engineering and cost analyses because the results showed that the two blowing agent alternatives can be used to achieve similar performance for similar costs to HFC–245fa. DOE estimates are reasonable and address the concern of the Department of Justice to provide more than one choice of insulation blowing agent with comparable performance and at approximately the same cost.

Based on the analysis of the three different types of blowing agents, HFC–245fa-, pentane/cyclopentane- and HFC–134a, DOE concluded that water heater manufacturers will have several choices to reach the standard, including blends of these blowing agents, and therefore, will not have to rely on a sole source supplier.

V. Conclusion

After careful consideration of the GAMA and AGA petitions for reconsideration before the Secretary of Energy, a review of the letter from the coalition of energy advocacy organizations, and a detailed review of the record that supports this final rule, DOE hereby denies the petitions for reconsideration and concludes that no further action is warranted.

Issued in Washington, D.C. on April 12, 2001.

Spencer Abraham,

Secretary of Energy.

[FR Doc. 01–9569 Filed 4–13–01; 1:00 pm]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 719

48 CFR Parts 931 and 970

RIN 1990–AA27

Contractor Legal Management Requirements; Department of Energy Acquisition Regulation

AGENCY: Department of Energy (DOE).

ACTION: Final rule; completion of regulatory review.

SUMMARY: In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001 (66 FR 7702), DOE temporarily delayed for 60 days (66 FR 8746, February 2, 2001) the effective date of the rule entitled ''Contractor Legal Management Requirements; Department of Energy Acquisition Regulation'' published in the **Federal Register** on January 18, 2001 (66 FR 4616). DOE has now completed its review of that regulation and does not intend to initiate any further rulemaking action to modify its provisions and confirms the effective date of April 23, 2001.

DATES: The effective date of the rule published at 66 FR 8746, February 2, 2001, is confirmed as April 23, 2001.

FOR FURTHER INFORMATION CONTACT: Laura Fullerton, (202) 586–3420, *laura.fullerton@hq.doe.gov;* or Anne Broker, (202) 586–5060, *anne.broker@hq.doe.gov.*

Issued in Washington, DC.

Spencer Abraham,

Secretary of Energy.

[FR Doc. 01–9466 Filed 4–16–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 830

RIN 1901–AA34

Nuclear Safety Management

AGENCY: Department of Energy (DOE).

ACTION: Final rule; completion of regulatory review.

SUMMARY: In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001 (66 FR 7702), DOE temporarily delayed for 60 days (66 FR 8746, February 2, 2001) the effective date of the rule entitled ''Nuclear Safety Management'' published in the **Federal Register** on January 10, 2001 (66 FR 1810). DOE has now completed its review of that regulation, and does not intend to initiate any further rulemaking action to modify its provisions and confirms the effective date of April 10, 2001.

DATES: The effective date of the rule published at 66 FR 8746, February 2, 2001, is confirmed as April 10, 2001.

FOR FURTHER INFORMATION CONTACT: Richard Black, Director, 301–903–3465, *Richard.Black@eh.doe.gov*

Issued in Washington, D.C.

Spencer Abraham,

Secretary of Energy.

[FR Doc. 01–9459 Filed 4–16–01; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 261a

[Docket No. R–1102]

Rules Regarding Access to Personal Information Under the Privacy Act

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: In accordance with the Privacy Act, the Board of Governors of the Federal Reserve System (Board) is amending its Rules Regarding Access to Personal Information under the Privacy Act. Notice of this new system of records, entitled Protective Information System (BGFRS–31) is published in an adjacent notice. This rule also makes a technical correction to an earlier document.

EFFECTIVE DATE: May 21, 2001.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boutilier, Managing Senior Counsel, Legal Division (202/452–2418), Board of Governors of the Federal Reserve System, 20th and Constitution, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Board's Protective Services Unit (PSU) was established to provide security for the Chairman and other members of the Board of Governors. To facilitate security procedures, the PSU intends to implement a software program that was developed for law enforcement entities to monitor activities of individuals under investigation. The PSU plans to use this system to monitor the correspondence and/or activities of individuals that are perceived to present a possible threat to the safety of Board members. Inclusion of individuals in this system will result primarily from correspondence received from such individuals that is perceived to be threatening to members of the Board. Information may also be received from law enforcement agencies that have information regarding a potential threat to members of the Board. The software that is being acquired for this system will allow the PSU to sort files by a variety of subjects, including such things as names, aliases, addresses, zip codes, etc. This will permit the PSU to obtain a better understanding of the threat, if any, that is presented by an individual or group of individuals. Because this information consists of investigatory material that is compiled for the law enforcement purpose of protecting members of the federal government, it is exempt from certain provisions of the Privacy Act, including