

REGULATION OF GENERAL SERVICE FLUORESCENT LAMPS WITH COLOR RENDERING INDICES GREATER THAN OR EQUAL TO 82 AND LESS THAN 87

Issued: March 22, 2011

The Department of Energy (DOE or the Department) regulates the energy efficiency of General Service Fluorescent Lamps (GSFLs) pursuant to 42 U.S.C. § 6295(i) and 10 C.F.R. § 430.32(n). The Department's regulation of GSFLs is limited to products that fall within the definition of "General Service Fluorescent Lamp" contained at 42 U.S.C. § 6291(30)(B) and 10 C.F.R. § 430.2. That definition excludes eight categories of lamps from coverage, one of which is "Lamps with a Color Rendering Index [CRI] of 87 or greater."

Prior to the Energy Independence and Security Act of 2007 (EISA 2007), the definition of GSFL excluded lamps with a CRI of 82 or greater. However, section 316(b) of EISA 2007 amended the definition of GSFL at 42 U.S.C. § 6291(30)(B)(viii) by striking "82" and inserting "87." (Although the heading to section 316(b) indicated that this change was to the definition of "Fluorescent Lamp," the nature of the change and the statutory reference made clear that the change was to the definition of "General Service Fluorescent Lamp.") On March 23, 2009, the Department incorporated this statutory change into its own definition of GSFL contained at 10 C.F.R. § 430.2. *See* 74 Fed. Reg. 12,058, 12,062.

Section 316(b) of EISA 2007 did not provide a separate effective date, and, thus, this amendment took effect one day after EISA 2007 was enacted, i.e., December 20, 2007. *See* EISA 2007 § 1601. Since that date, therefore, GSFLs with a CRI equal to or greater than 82 but less than 87 have been subject to the applicable standards enacted by Congress for minimum average lamp efficacy.

The Department has recently become aware of confusion in the industry regarding whether the revised definition of GSFL is presently effective. Regulated parties have referred to the Department's general practice of providing substantial notice before new products are subject to regulation. While it is true that the Department customarily provides future compliance dates for new products being made subject to energy conservation standards – and often is statutorily mandated to provide such time – in this case, the Department is without power to do so. That is because Congress changed the statutory definition of GSFL and elected to make that change effective immediately. Moreover, the new definition of GSFL has been publicly accessible in the U.S. Code for over three years and in the Department's regulations for two years.

Nevertheless, because a review of products on the market reveals that confusion on this issue is widespread, the Department will forebear for 90 days from initiating any civil penalty action for GSFLs with a CRI of 82 or greater. Within 90 days of this notice, the Department expects all GSFLs with a CRI equal to or greater than 82 but less than 87 that are manufactured in or imported into the United States to be certified as compliant with the applicable Federal standard.