



Department of Energy
Washington, DC 20585

April 26, 2013

Ms. Jennifer Cleary
Director, Regulatory Affairs
Association of Home Appliance Manufacturers (AHAM)
1111 19th St. NW, Suite 402
Washington, DC 20036

Dear Ms. Cleary:

This letter is to inform AHAM that the U.S. Department of Energy (DOE or the Department) is adopting a new policy regarding DOE ENERGY STAR verification testing of models that are part of the AHAM verification program for clothes washers; dishwashers; or residential refrigerators, refrigerator-freezers, and freezers.

AHAM, in its capacity as an ENERGY STAR Verification Body, has cooperated in DOE's efforts to support the Environmental Protection Agency's ENERGY STAR program. AHAM sponsors verification programs for five covered product types: clothes washers; dehumidifiers; dishwashers; refrigerators, refrigerator-freezers, and freezers; and room air conditioners. As part of these verification programs, third-party laboratories test selected models to verify that measured values for certain metrics are consistent with rated values for the same metrics.¹ In this process, AHAM, through the third-party laboratory, identifies instances of potential noncompliance with ENERGY STAR requirements and federal energy conservation standards. If a third-party laboratory notifies a program participant that a model is potentially noncompliant with any program requirement, AHAM notifies relevant government stakeholders, including DOE, in a timely matter in order to rectify any potential compliance issues.

AHAM has, in the past, notified DOE when a model was noncompliant with an AHAM program energy requirement and, upon request, provided relevant test reports.² Information from AHAM has proven helpful in DOE investigations of situations involving (1) failure to meet Federal minimum standards, and (2) failure to properly rate models in DOE certification reports.³

The Department, through its own ENERGY STAR verification program, also tests models that are part of the ENERGY STAR program. DOE's testing provides assurance that products

¹ For example, when testing refrigerators, freezers, and refrigerator-freezers, the third-party test laboratory compares measured and rated values for internal volume and annual energy consumption.

² AHAM has also notified the Environmental Protection Agency (EPA) of instances of potential noncompliance with ENERGY STAR specifications.

³ It is important to note that testing of a single unit cannot definitively determine compliance or noncompliance with federal energy conservation standards.



labeled as ENERGY STAR do, in fact, comply with ENERGY STAR performance specifications. AHAM also has been providing DOE lists of models that laboratories have tested as part of AHAM's verification programs, which has allowed DOE to avoid duplication of AHAM's testing and more efficiently allocate Federal funds.

Given AHAM's history of cooperation and to maximize the impact of government resources while continuing to protect consumers, DOE plans to refrain from conducting ENERGY STAR verification testing of models that are part of the AHAM verification program for clothes washers; dishwashers; or residential refrigerators, refrigerator-freezers, and freezers, so long as AHAM meets several requirements, which it has agreed to do with written acknowledgment of this letter and its contents.⁴

First, AHAM must provide DOE with a list of models and basic models that are subject to verification testing through each of the three relevant AHAM verification programs. This list must include original equipment manufacturer (OEM) information and the model number that a consumer would see for each model number. Without this information, DOE cannot ensure that (1) there is not duplication and (2) no models are excluded from verification testing by both AHAM and DOE. In addition, AHAM must make sure that any basic model certified to DOE by, or on behalf of, one of AHAM's Licensees is included as a separate basic model in the list of basic models subject to verification testing. AHAM has indicated that it agrees to these requirements. When AHAM submits this list at the beginning of each program year, it will request that DOE identify which models, OEM, and/or energy platform it would like AHAM to target for testing in the upcoming program year. AHAM will also request that DOE indicate its priorities.

Second, AHAM must notify DOE each year before it makes final selections regarding which models to test as part of its verification programs. AHAM has agreed to do so. In addition, if DOE requests that AHAM test particular models or categories of models (e.g., models from a certain OEM or particular product classes) not already selected for testing, AHAM must accommodate DOE's request(s), unless it exceeds the ten percent of Basic Models per Licensee that AHAM's programs test. Should DOE's requests under this requirement exceed the number of units to be tested beyond the ten percent of each Licensee's basic models provided for in AHAM's procedural guides, AHAM will make every effort to test the units DOE indicates are priorities, but will not test units above the number of Basic Models provided for in the procedural guides.⁵

Third, AHAM must provide a list at the end of each testing cycle that indicates which ENERGY STAR qualified models were tested during that cycle and the results of such testing (e.g., a

⁴ DOE will test basic models that are ENERGY STAR labeled and subject to the AHAM verification program as part of a test procedure or standards rulemaking.

⁵ In the instance where the number of basic models provided for in the AHAM procedural guides has been met and DOE receives a specific complaint, DOE may proceed at DOE's expense with verification testing of a basic model that is ENERGY STAR labeled and subject to AHAM's program that has not been tested in the calendar year.

summary of the pass/fail criteria and the test results for the DOE regulatory and ENERGY STAR metrics). In addition, AHAM will submit to DOE the test data reports for each of the ENERGY STAR qualified models that were tested during that cycle in the agreed upon format as confidential business information. AHAM has agreed to do so.⁶

Fourth, AHAM must continue to notify DOE regarding findings of potential noncompliance with ENERGY STAR requirements. Such notification shall be provided consistent with the Environmental Protection Agency's (EPA) ENERGY STAR verification program rules—i.e., AHAM will notify EPA and DOE within two (2) business days of a test failure, and the report will include test data. AHAM's policy is to notify the relevant program participant simultaneously upon notification to EPA and DOE. Furthermore, if AHAM's test results indicate that an ENERGY STAR model may not comply with DOE's energy conservation standards (i.e., if any one test result does not meet the federal standard, with 0% tolerance), AHAM must notify DOE at least four (4) business days before the relevant program participant is notified. AHAM has agreed to this requirement

Fifth, AHAM's procedural guides must be consistent with DOE's regulations and guidance as well as EPA's ENERGY STAR verification program requirements. If DOE identifies any discrepancies between an AHAM verification programs' manual and a test procedure prescribed by DOE's regulations, AHAM must revise its manual so that it is consistent with the relevant DOE test procedure and EPA's ENERGY STAR verification program requirements. AHAM agrees that the intent of its program is to be consistent with all relevant DOE and EPA regulations and guidance, and, therefore, has agreed to this requirement. DOE has reviewed the current versions of the AHAM procedural guides for the relevant three programs, and determined that they satisfy this requirement as of the date of this letter.

Sixth, if AHAM arranges any reviews of testing procedures and policies at test facilities, AHAM must invite DOE to observe the review(s). This is not meant to include periodic audits or visits to AHAM's member laboratories that are conducted as part of AHAM's usual course of business. AHAM has agreed to this requirement.

Seventh, AHAM must refer all test procedure interpretation questions from their verification laboratories to DOE for an official response. Because AHAM's practice has been to seek formal guidance from DOE on all test procedure questions, AHAM has agreed to this requirement. As is DOE's policy, DOE will make all such guidance requests and responses public.

Please note that DOE's policy decision to refrain from conducting its own ENERGY STAR verification testing of models that are part of an AHAM verification program will be reviewed at

⁶ AHAM has expressed its view that some of the information in the test reports is commercial information that is confidential and meets the requirements of Exemption 4 under the Freedom of Information Act (FOIA). DOE has reviewed the types of information for which AHAM has asserted the exemption and tentatively agrees that the information appears to be of the type that is not subject to release; however, DOE will review any documents found to be responsive to a request for documents filed under the FOIA and will make a final determination regarding the applicability of Exemption 4 at that time.

least annually and may be modified at any time. DOE will notify AHAM in advance of any such modification or if it is considering rescinding this policy. This policy decision may also, of course, be overridden by regulation.

In closing, DOE wishes to express its appreciation for AHAM's efforts and its hope that, with AHAM's continued cooperation, the Department can conserve resources and protect consumers by focusing its own ENERGY STAR verification testing on models that are not already part of an AHAM verification program.

If you have any questions, please contact Ashley Armstrong at Ashley.Armstrong@ee.doe.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'KBH', with a long horizontal flourish extending to the right.

Kathleen B. Hogan
Deputy Assistant Secretary for Energy Efficiency
Energy Efficiency and Renewable Energy