

## **Enforcement Policy Statement – Engineered-To-Order for WICF Doors**

Issued: March 12, 2019

In an exercise of its enforcement discretion, the U.S. Department of Energy (DOE) will not impose civil penalties on a walk-in cooler or walk-in freezer (WICF) door manufacturer for failure to certify a WICF door basic model prior to distribution in commerce in the United States, provided that the basic model is engineered-to-order and the manufacturer submitted a certification report for the basic model as follows:

- (1) For domestically manufactured, engineered-to-order WICF doors – the certification is submitted prior to the date on which the basic model is shipped.
- (2) For engineered-to-order WICF doors built outside of the U.S. – the certification is submitted prior to the date on which the basic model is imported.

For purposes of this policy, DOE will only consider a WICF door model to be engineered-to-order if such model is:

- (1) not listed in any catalogs or marketing literature;
- (2) designed and built to specific customer requirements;
- (3) not offered as a set of options (e.g., configure-to-order, menu-system); and
- (4) certified to DOE as engineered-to-order<sup>1</sup>.

An engineered-to-order basic model is new model that is fundamentally different from any previously distributed models such that the new model requires an engineer to design and test the model as a completely new design. DOE also notes that an engineered-to-order designation does not rest solely on the existence of only one customer for the basic model.

DOE would not consider a basic model to be engineered-to-order for more than one annual certification cycle, effectively meaning that the basic model cannot be classified as engineered-to-order for more than 24 months. For example, if a manufacturer designates a model on its certification as engineered-to-order this year, but continues to sell that model (even if to the same customer) in the following year, DOE would no longer consider that model engineered-to-order, and the manufacturer should not continue to certify it as such. If the manufacturer does not recertify the engineered-to-order product as a typical basic model by the second annual

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<sup>1</sup> DOE's latest WICF Door template allows use of an "ETO" code in the Action Code column to designate a basic model as engineered-to-order.

certification deadline then the manufacturer is effectively certifying that the model has been discontinued. In that case, DOE would automatically treat the basic model as discontinued.

Background:

Each manufacturer, before distributing in commerce in the United States any basic model of covered equipment subject to an applicable energy conservation standard, must test basic models according to DOE test procedures and submit a certification report to DOE certifying that each basic model meets the applicable energy conservation standard. This certification is submitted through the Compliance Certification Management System (CCMS) system.

In a final rule regarding the Certification of Commercial Heating, Ventilation, and Air-Conditioning, Water Heating, and Refrigeration Equipment<sup>2</sup> (2014 Certification Rule), DOE established that manufacturers of commercial water heating equipment, commercial packaged boilers, commercial heating, ventilation, and air conditioning equipment, and commercial refrigeration equipment may, in certain circumstances, designate a basic model as engineered to order in their certification reports.

DOE did not consider WICF doors in the 2014 Certification Rule, and the concept of engineered-to-order is not included in DOE regulations pertaining to WICFs. However, based on feedback received from WICF door manufacturers, DOE now recognizes that there may be some instances where basic models of WICF doors are engineered to order as described in the 2014 Certification Rule.

This policy does not create or remove any rights or duties and does not affect any other aspect of EPCA or DOE regulations. This policy statement is not a final agency action, has no legally binding effect on persons or entities outside the federal government, and may be rescinded or modified in the Department's complete discretion. Accordingly, it is not intended to, does not, and may not be relied upon to, create any rights, substantive or procedural, enforceable at law by any party in any matter.

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<sup>2</sup> 79 FR 25486; <https://www.regulations.gov/document?D=EERE-2013-BT-NOC-0023-0078>.