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July 28, 2011

U.S. Department of Energy
Office of General Counsel
1000 Independence Avenue, SW Room 6A245
Washington, DC 20585

**RE: Comments to DOE on Certification, Compliance and Enforcement Regulations
for Consumer Products and Commercial and Industrial Equipment
EO 13563 Preliminary Plan**

To Whom It May Concern:

Lochinvar Corporation is a manufacturer of Commercial Boilers, Water Heaters and Pool Heaters. We would like to provide the following comments in regard to DOE's request for comment on the department's Preliminary Plan for Retrospective Analysis of Existing Rules. These comments are concerning the discussion of the "already accomplished or proposed actions" contained in the Preliminary Plan.

- **18 Month Extension to Rule** - The first comment is in regard to the 18 month extension for commercial equipment to comply with the March 2011 final rule for Certification, Compliance and Enforcement. When the industry impacted by this rule requested DOE delay the implementation of the rule it was because as written the burden placed on manufactures would not allow enough time to meet the original July 2011 date. Another reason for the extension was to allow DOE time to re evaluate the rule as written to lessen the burden. Two (2) items that were requested to be evaluated were the definition of the Basic Model and the method to determine an AEDM.

DOE granted an 18 month extension but as a manufacturer we are still waiting to see what DOE will do with the rest of the rule before spending the considerable funds and resources to conduct Certification per the original rule.

In our opinion, the 18 month extension should be from the date that changes to the March 2011 rule are finalized. As a manufacturer we cannot conduct testing per the March 2011 rule and then re-do testing according to a revised rule if and when it gets completed. We have limited resources and need to choose wisely how to use them.

Our Request is – Address the definition of the Basic Model and the AEDM to match what the industry is doing today to reduce the burden. Base the 18 month extension on a revised rule and not the rule released in March 2011.

- **Allow Voluntary Industry Certification Programs (VICP's)** – VICP's such as the AHRI certification program exist in our industry to provide third party certification and annual verification of a products performance. These programs have served the industry well in the last 30 or more years. These programs exist because there was not a mandated program. The industry came together long ago and created these robust programs.

In order to achieve the policy goal of Certification, Compliance and Enforcement and to minimize the cost and the burden on manufactures DOE should reconsider its decision to not recognize VICP's as a viable method. The burden on the public can be avoided by rescinding the March 2011 final rule and re-writing it to recognize VICP's.

In the final rule issued in January 2010, DOE recognized VICP's. The industry was generally supportive of that final rule. In the rule making for the March 7, 2011 final rule, DOE decided not to recognize VICP's without justification or any experience to indicate that the provisions in the January 2010 were faulty.

Our Request – Rescind the March 2011 final rule for Certification, Compliance and Enforcement, re-write the rule to add recognition of manufactures that participate in VICP's and include appropriate requirements of VICP's.



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cc: AHRI; Frank Stanonik