



May 9, 2011

Ms. Ashley Armstrong
U.S. Department of Energy
Building Technologies Program
1000 Independence Avenue, SW
Washington, DC 20585-0121
Via: ESTARVerificationTesting@ee.doe.gov.

Re: Comments on Department of Energy's Energy Star Verification Testing

Introduction

Consumers Union of United States, Inc.,¹ publisher of *Consumer Reports*®, submits the following comments in response to the U.S. Department of Energy (“DOE” or “Department”) in the above-referenced matter.

Comments

Consumers Union has consistently urged DOE to strengthen its verification program for energy usage claims for appliances and is very

¹ Consumers Union of United States, Inc., publisher of *Consumer Reports*®, is a nonprofit membership organization chartered in 1936 to provide consumers with information, education, and counsel about goods, services, health and personal finance. Consumers Union's publications and services have a combined paid circulation of approximately 8.3 million. These publications regularly carry articles on Consumers Union's own product testing; on health, product safety, and marketplace economics; and on legislative, judicial, and regulatory actions that affect consumer welfare. Consumers Union's income is solely derived from the sale of *Consumer Reports*®, its other publications and services, fees, noncommercial contributions and grants. Consumers Union's publications and services carry no outside advertising and receive no commercial support.

supportive of DOE's proposed verification procedures for the Energy Star program and federal energy conservation standards. As mentioned in prior comments, Consumers Union has repeatedly found significant discrepancies between the claims made in energy-usage labeling and the energy expended during our routine testing for several appliance models and has brought these matters to the Department's attention. Our results have raised significant concerns about the enforcement of the Energy Star program as well as cast doubt on whether certain appliances even meet minimum conservation standards. DOE's current plan to enhance verification testing succeeds in two important categories: independence and effectiveness.

I. Independence of testing and verification

Section 5.3 (Obtaining Units for Testing) specifies that samples used for testing will be acquired at retail. This is an excellent safeguard against bias from manufacturer-selected test samples and is a safeguard that Consumers Union also employs for its own product testing. Similarly, the requirement in Section 6.3 (Manufacturer Notification) that manufacturers are disallowed access to the test samples throughout the testing process helps ensure the independence and integrity of the verification program.

II. Effectiveness of testing and verification

Section 5.2 (Verification Model Selection) identifies criteria consistent with those of products for which Consumers Union has most frequently found discrepancies in its testing, particularly: newer products, repeat bad actors, repeat problem product classes, and waiver requests.

As noted in prior comments to the DOE, Consumers Union supports the Section 6.1 (Test Lab Selection) requirement that labs be accredited to ISO/IEC 17025, "General Requirements for the Competence of Testing and Calibration Laboratories," as the standard for accrediting labs engaged in DOE testing. This helps to ensure that the laboratory conducting DOE testing is competent to perform such testing and exercises good laboratory practices.

Section 6.4 (Determining if a Product Meets the Energy Star Specification) bases the test sample size on how the product was qualified for the Energy Star program. This structure leverages existing DOE verification procedures and provides appropriate incentives for manufacturers to engage in their own robust testing. Section 6.4.2 specifies a 5% tolerance for the initial test sample. Consumers Union believes this is a reasonable tolerance, based on our experience with product variability and findings that most significant discrepancies in our own testing were well outside of this margin. However, a tolerance greater than 5% could lead to an erosion of savings, as Energy Star criteria often require only 10-20% savings over minimum standards.

Conclusion

For the foregoing reasons, Consumers Union urges DOE to adopt the procedures as currently written in its April 22, 2011 verification program proposal.

Respectfully Submitted,

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Consumers Union