



Department of Energy

Washington, DC 20585

April 1, 2015

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

Dear Ms. Cleary:

On April 26, 2013, the U.S. Department of Energy (DOE or the Department) informed AHAM that it planned to refrain from conducting ENERGY STAR verification testing of models that are part of the AHAM verification program for clothes washers; dishwashers; and residential refrigerators, refrigerator-freezers, and freezers, with the agreement that AHAM would meet certain requirements in its capacity as an ENERGY STAR Verification Body.

Since the adoption of this policy, AHAM has been very cooperative in providing notifications and information needed by DOE to oversee the testing done under the AHAM verification program and to ensure that the program's procedures are consistent with DOE's regulations and guidance as well as EPA's ENERGY STAR verification program requirements, as would be the case were the same verification testing conducted by DOE.

As such, DOE considers this policy to have been successful in maximizing the impact of government resources while continuing to protect consumers. Accordingly, this letter is to restate that policy, including clarifications as set forth below, and to include in its scope the AHAM verification program for dehumidifiers. The policy in this letter will take effect for each product type beginning January 2, 2015, will be reviewed at least annually in consultation with AHAM, and will remain in effect in the absence of notification to AHAM that DOE is modifying or rescinding the policy.¹²

Specifically, DOE plans to refrain from conducting ENERGY STAR verification testing of models that are part of the AHAM verification program for clothes washers; dishwashers; residential refrigerators, refrigerator-freezers, and freezers; or dehumidifiers, so long as AHAM

¹ Program years for each product type are as follows: clothes washers, January 1 to December 31 (beginning January 1, 2015); dehumidifiers, January 1 to December 31; dishwashers, June 1 to May 31; residential refrigerators, refrigerator-freezers, and freezers, August 1 through July 31.

² In cases where the percentage of ENERGY STAR units is very high compared to their overall number of Basic Models, DOE will work with AHAM to consider selecting one or more units at random by the AHAM Program.



meets several requirements which it has agreed to do with written acknowledgment of this letter and its contents.³

First, AHAM must provide DOE with a list of models and basic models that are subject to verification testing through each of the four relevant AHAM verification programs. This list must include name of the Licensee, original equipment manufacturer (OEM), brand, 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 and EPA ENERGY STAR 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 the total number of models requested by DOE exceeds 10 percent of a Licensee's ENERGY STAR qualified basic models.^{2,4}

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 summary of the pass/fail criteria and the test results for the DOE regulatory and ENERGY STAR metrics). With its summary, AHAM will provide an overview in a Microsoft Excel format of the test data, showing the distribution of test results in relation to the relevant ENERGY STAR requirements. 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.⁵

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.,

³ 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.

⁴ 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.

⁵ 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.

AHAM will notify EPA and DOE within two (2) business days of a test failure, and the notification to DOE will include the test reports. 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 four 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. In addition, at DOE's request, AHAM has added provisions to the Program Guides for each of the products to give DOE an opportunity to provide an agency interpretation where appropriate in the laboratory challenge process.

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 least annually and may be modified at any time. DOE will include consultations with AHAM in its periodic reviews and will notify AHAM in advance of any such modification or if it is considering rescinding this policy. DOE expects that any issues in the implementation of this policy will be resolved in cooperation with AHAM, and that any modification will be implemented by AHAM in a timely manner. 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