Guidance Concerning Certification Following a Change

in the Applicable Energy or Water Conservation Standard

The Energy Policy and Conservation Act of 1975, as amended, (EPCA or the ''Act'') authorizes the U. S. Department of Energy (DOE or the ''Department'') to enforce compliance with the energy conservation standards established for certain consumer products and commercial equipment. 42 U.S.C. §§ 6299–6305 (consumer products), 6316 (commercial and industrial equipment). To ensure that all covered products distributed in the United States comply with DOE's energy conservation standards, the Department has promulgated enforcement regulations, which include specific certification and compliance requirements. See Title 10 of the Code of Federal Regulations (10 CFR) part 430, subpart F; 10 CFR part 431, subparts B and T.

Each manufacturer must certify that each basic model meets the applicable energy conservation standard before distributing that model in commerce. 10 CFR 430.62(a). See also 10 CFR 431.35-431.36 (electric motors) and 10 CFR 431.371 (other commercial and industrial products). Certification is achieved by submitting a certification report and a compliance statement. Id. DOE regulations do not require manufacturers to report modifications to the basic model that improve energy efficiency. 10 CFR § 430.62(b). See also 10 CFR 431.36(e) (electric motors). See generally, 10 CFR 431.371(b) (for some commercial and industrial equipment). This provision is not designed, however, to eliminate the fundamental requirement for a product to be certified to comply with the applicable energy or water conservation standard.

When the energy or water conservation standard changes, either through an Act of Congress or through a regulatory change, two situations may result. *First*, a high performing

manufacturer may have submitted a certification report for a basic model reporting a metric (energy consumption or energy efficiency) that meets the new standard before the new standard took effect. For example, a refrigerator manufacturer may have certified an ENERGY STAR rated basic model. When the standard changed, that basic model as previously certified may meet the new conservation standard (even though it may not meet the new ENERGY STAR standard). If the pre-existing certified metric for a basic model shows that the basic model meets the new standard, no additional certification of that basic model is required.

Second, a manufacturer may have submitted a certification report for a basic model reporting a metric that met the old standard but does not meet the new standard. Although the manufacturer may make changes to the basic model such that it meets the new standard, the manufacturer must submit a new certification report. Again, the basic rule is that each manufacturer must certify that each basic model meets the applicable energy conservation standard before distributing that model in commerce. 10 CFR § 430.62(a) and 10 CFR 431.371(a). Similarly, manufacturers of medium electric motors would need to comply with the requirements of 10 CFR 431.35-431.36, as applicable, to certify a basic model of this equipment to a new energy conservation standard. If the manufacturer's previous certification does not demonstrate that the basic model meets the new standard, then that model has not been certified to DOE as meeting the applicable energy conservation standard. Accordingly, it may not be distributed in commerce when the new standard takes effect – unless and until the manufacturer submits a new certification report with a metric demonstrating that the basic model meets the new standard.

This guidance represents the Department's interpretation of existing regulations. It is not intended to create or remove any rights or duties, nor is it intended to affect any other aspect of EPCA or DOE regulations.