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October 1, 2010

Via E-Mail

Ann Bailey, Chief  
ENERGY STAR Labeling Branch  
U.S. Environmental Protection Agency  
ENERGYSTARVerificationProgram@energystar.gov

Re: ENERGY STAR Verification Program,  
Proposed Revisions To Partner Commitments and Product Specifications

Dear Ms. Bailey:

On behalf of the Association of Home Appliance Manufacturers (AHAM), I would like to provide our comments on the proposed revisions to the ENERGY STAR Partner Commitments and Product Specifications, per your letter to interested parties on September 14, 2010.

The Association of Home Appliance Manufacturers (AHAM) represents manufacturers of major, portable and floor care home appliances, and suppliers to the industry. AHAM's membership includes over 150 companies throughout the world. In the U.S., AHAM members employ tens of thousands of people and produce more than 95% of the household appliances shipped for sale. The factory shipment value of these products is more than \$30 billion annually. The home appliance industry, through its products and innovation, is essential to U.S. consumer lifestyle, health, safety and convenience. Through its technology, employees and productivity, the industry contributes significantly to U.S. jobs and economic security. Home appliances also are a success story in terms of energy efficiency and environmental protection. New appliances often represent the most effective choice a consumer can make to reduce home energy use and costs.

AHAM supports EPA in its efforts to provide incentives to manufacturers, retailers, and consumers for continual energy efficiency improvement. AHAM understands the need to ensure public confidence in the ENERGY STAR program, and looks forward to continuing to work with EPA ENERGY STAR in its development of the enhanced testing and verification program as well as the ENERGY STAR program as a whole. It is critical that EPA ENERGY STAR retains consistency with DOE regulations and test procedures.

## I. Revisions To Product Specifications

EPA ENERGY STAR proposes a number of revisions to the product specifications for appliances. Many of these proposed revisions are inconsistent with existing Department of Energy (DOE) regulations and test procedures under the energy conservation program, including, but not limited to:

- a. The product definitions vary significantly from the definitions in 10 C.F.R. § 430.2;
- b. The product specifications use the term “product family,” whereas DOE relies on a system of basic models, which it has proposed to retain, with some clarifications and modifications, in its certification, compliance, and enforcement rulemaking (*See* 10 C.F.R. § 430.2; 75 Fed. Reg. 56796, 56798-99 (Sept. 16, 2010)); and
- c. The product specifications contain provisions regarding significant digits and rounding that vary from the DOE rounding procedures.

It is critical that EPA ENERGY STAR’s requirements are consistent with DOE regulations and test procedures. Without such consistency and uniformity there will be substantial confusion for manufacturers and for consumers. As an example, the differences could potentially result in different ratings for the same product. We thus strongly urge EPA ENERGY STAR to be consistent in all respects with DOE. EPA ENERGY STAR must have substantial reasons for varying from DOE regulations, and if EPA ENERGY STAR varies from any DOE requirement, AHAM requests that it provide its reasons for doing so and give stakeholders the opportunity to comment.

## II. Revisions To Partner Commitments

The September 14 letter to interested parties states that EPA has added a requirement for appliance manufacturers to annually submit unit shipment data. According to the draft revised partner commitments, “[s]ubmitted unit shipment data will be used by EPA only for program evaluation purposes and will be closely controlled. Any information used will be masked by EPA so as to protect the confidentiality of the Partner.” Appliance manufacturers treat unit shipment data with utmost confidentiality, and this statement recognizes that. But AHAM strongly urges EPA ENERGY STAR to more fully state how it intends to treat such confidential information. The partner commitments should state that unit shipment data is confidential business information, and as such, will not be subject to public disclosure under the Freedom of Information Act or otherwise.

EPA ENERGY STAR should also state how it intends to “mask” the data to protect the partner’s confidentiality. The draft revised partner commitments state that “any information used will be masked by EPA so as to protect the confidentiality of the partner.” AHAM asks EPA to clarify how it intends to use the information. Does EPA ENERGY STAR intend to release to the public such data in the “masked” format? If so, masking must consist only of aggregated data, and the

aggregation must provide sufficient confidentiality. EPA ENERGY STAR should not release aggregated reports if there are fewer than three companies reporting data in any particular category. If there are only two reporters, each reporting company can subtract out its own data and determine the other company's data, which undermines the purpose of aggregating the data—to protect each company's confidential information and competitive position. Furthermore, any data released should be on a product basis, not on a product class basis. (e.g., no more granular than by refrigerator, refrigerator-freezer, freezer, residential dishwasher, residential clothes washer, etc.). Breaking down data into smaller sub-categories than that may allow competitors to identify a certain company's data based on which manufacturers make each class of product.

AHAM appreciates the opportunity to submit these comments and would be glad to further discuss this matter with EPA ENERGY STAR.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jennifer Cleary". The signature is written in black ink and is positioned above the printed name and title.

Jennifer Cleary  
Director, Regulatory Affairs

cc: Kathleen Vokes, ENERGY STAR Product Development, EPA