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February 15, 2013

Via E-Mail

Katharine Kaplan
U.S. Environmental Protection Agency
ENERGY STAR Appliance Program
appliances@energystar.gov

Re: ENERGY STAR Program Requirements Product Specification for Clothes Washers, Eligibility Criteria, Version 6.1 (Commercial Clothes Washers)

Dear Ms. Kaplan:

On behalf of the Association of Home Appliance Manufacturers (AHAM), I would like to provide our comments on the finalized “clarifications” in Version 6.1 of the ENERGY STAR Program Requirements Product Specification for Clothes Washers, Eligibility Criteria. Although the changes were presented as final, EPA re-opened the comment period until February 15, 2013.

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 and the Department of Energy (DOE) in their efforts to provide incentives to manufacturers, retailers, and consumers for continual energy efficiency improvement, as long as product performance can be maintained for the consumer. AHAM continues to believe that DOE’s regulations must be the foundation for the ENERGY STAR program.

The current Version 6.0 commercial clothes washer definition does not include a defined capacity limitation on eligible products. Thus, EPA initially proposed to clarify that a commercial clothes washer, for purposes of ENERGY STAR qualification, cannot exceed 6.0 cubic feet. Specifically, EPA proposed the following definition (with redlines showing the proposed changes to the existing Version 6.0 definition):

Commercial Clothes Washer: A soft-mounted front-loading or soft-mounted top-loading clothes washer that has a clothes container compartment that is not more than 6.0 cubic feet and that is defined for use in: (i) Applications in which the occupants of more than one household will be using the clothes washer, such as multi-family housing common areas and coin laundries; or (ii) Other commercial applications.

EPA stated that it selected 6.0 cubic feet as the capacity limitation because Table 5.1 in Appendix J1, the DOE clothes washer test procedure, does not go beyond 6.0 cubic feet.

On January 25, EPA released the final clarification in Version 6.1. Instead of changing the definition of commercial clothes washer as proposed, however, EPA revised the scope of the specification to further depart from the Department of Energy's federal regulations and included products "with a clothes container volume that is not more than 6.0 cubic feet and that meet the definition of a residential clothes washer or commercial clothes washer as specified herein . . ." Thus, the final Version 6.1 not only limits the capacity of a commercial clothes washer, but also precludes residential clothes washers that are larger than 6.0 cubic feet from qualifying for ENERGY STAR. EPA never indicated that it intended to make a significant change to the scope of the residential clothes washer specification through this "clarification" procedure. As reasoning for the scope change, EPA stated in a subsequent letter dated January 31:

Although we initially framed this clarification as a change to the commercial clothes washer definition, the Agency found, after reviewing stakeholder comments, that it would be clearer to limit the capacity of clothes washers for ENERGY STAR purposes via the scope. EPA believes that including the maximum capacity in the scope better clarifies that the capacity limit applies to both residential and commercial clothes washers, consistent with the Department of Energy test procedure that both are subject to."

From review of the comments submitted to EPA it does not appear to AHAM that any stakeholder suggested such a scope revision for residential clothes washers. Although AHAM appreciates that, upon request, EPA has re-opened the comment period in order to allow stakeholders to address this issue, we must object to the lack of transparency in the initial process. Extending a capacity limitation to residential clothes washers is not a minor editorial change—it is a significant, substantive scope limitation (as was the proposal to "clarify" that commercial clothes washers can qualify for ENERGY STAR up to 6.0 cubic feet). The proper place to consider such a change would be the specification process currently open for the residential clothes washer specification, Version 7.0. In any case, AHAM opposes the scope limitation for residential clothes washers, whether it be instituted through this "clarification" process, without proper vetting through stakeholders, or through the formal specification revision process.

As we have commented in the past, DOE's regulations are to be the foundation for the ENERGY STAR program. Thus, EPA should not use an approach that varies from DOE's approach. Varying from DOE's approach, as is evidenced from the need for a clarification on the commercial clothes washer definition, creates confusion for stakeholders, and, ultimately, consumers.

AHAM is not suggesting that the ENERGY STAR program must necessarily encompass the same scope as is regulated by DOE—we understand that the ENERGY STAR program includes many products that are not regulated by DOE. But, when addressing products that DOE does regulate, EPA must recognize the DOE foundation, and the requirements imposed through federal law, and should not stray from it without thorough analysis and stakeholder input. For example, if EPA does not want to parallel DOE’s scope (e.g., wants to allow commercial clothes washers bigger than 3.5/4.0 cubic feet to qualify for ENERGY STAR even though they are not DOE-regulated products), EPA must do an analysis of those products and evaluate the potential energy savings, manufacturer costs, etc., and seek stakeholder input. Similarly, if EPA wishes to preclude products, like residential clothes washers larger than 6.0 cubic feet, from the ability to qualify for ENERGY STAR despite the fact that such product is included in the scope of the DOE-regulated product, it must have data and reasoning for doing so and must vet such a proposal through stakeholders. By using a “clarification” procedure and tossing in scope limitations at the last minute, without an opportunity for comment, EPA has done neither in this case (with regard to residential or commercial clothes washers). This diversion from a clear and structured process diminishes the effectiveness of the ENERGY STAR program.

Furthermore, though AHAM appreciates EPA’s attempt to be consistent with the DOE test procedure, AHAM is concerned that EPA is misinterpreting the purpose of Table 5.1 in the DOE residential clothes washer test procedure. It is true that that table goes up to 6.0 cubic feet in Appendix J1. But, it has nothing to do with the limit either on commercial clothes washer capacity or on residential clothes washer capacity. The limit on commercial clothes washer capacity is stated in the DOE definition for that product. Specifically, in 10 C.F.R. 431.152, DOE defines a commercial clothes washer as follows:

Commercial clothes washer means a soft-mounted front-loading or soft-mounted top-loading clothes washer that—(1) Has a clothes container compartment that—(i) For horizontal-axis clothes washers, is not more than 3.5 cubic feet; and (ii) For vertical-axis clothes washers, is not more than 4.0 cubic feet; and (2) is designed for use in—(i) Applications in which the occupants of more than one household will be using the clothes washer, such as multi-family housing common areas and coin laundries; or (ii) Other commercial applications. (emphasis added).

If a manufacturer wanted to sell a commercial clothes washer larger than 3.5 or 4.0 cubic feet, the manufacturer could do so, but it would not be a DOE-covered product, and, thus, would not be subject to the DOE test procedure or standards.

There is, however, no such limitation on residential clothes washer capacity. If a manufacturer wanted to sell a 7.0 cubic foot residential clothes washer, it would still be a DOE covered product, and in order to put that product on the market, the manufacturer would simply need to obtain a test procedure waiver from DOE extending the load size table, for the specified product, up to 7.0 cubic feet. The product would still need to be tested per DOE’s test procedure (plus the waiver), and would still be subject to the applicable standards. In fact, until recently, Table 5.1 only went up to 3.80 cubic feet and most manufacturers obtained test procedure waivers extending Table 5.1 up to 6.0 cubic feet. Thus, AHAM opposes changing the scope of the

clothes washer ENERGY STAR specification to exclude residential clothes washers larger than 6.0 cubic feet. EPA has not shown a valid reason or sufficient (or any) data for departing from DOE's significant and lengthy regulatory analysis and standards making process that was open to debate and consideration by the public for a number of years.

With regard to commercial clothes washers, as AHAM previously commented, manufacturers might not design commercial clothes washers with larger capacities than those in the DOE definition on the same platforms as those that are designed to comply with DOE's standards. Thus, extending the capacity to allow larger units to qualify for ENERGY STAR is not a decision to be taken lightly and should not be done through a "clarification." DOE's lengthy regulatory analysis should not be disregarded. Even if ENERGY STAR were to completely disregard years of analysis and review, it should only consider such a dramatic change through a specification revision process in which data is presented and thoroughly analyzed by EPA and stakeholders. In this case, to our knowledge, there has been absolutely no analysis of the energy savings that would result from extending ENERGY STAR to these larger units. Nor has there been any analysis on the impact of doing so on consumers (or manufacturers). AHAM suggests that EPA contact individual manufacturers to further discuss the potential impact of increasing the capacity limit beyond those provided for in the DOE definition. Larger units may be designed to meet different requirements and their design and utility could be impacted were EPA to extend ENERGY STAR qualification to those units. For example, a larger unit might be designed for use in a hospital or nursing home where sanitization requirements require hotter water than is feasible to meet the ENERGY STAR requirements. Accordingly, we again urge EPA to adopt DOE's definition for commercial clothes washers and to cite that definition rather than employ a 6.0 cubic foot limitation. That is the best way to provide consistency and clarity to stakeholders.

AHAM appreciates the opportunity to submit these comments on ENERGY STAR's proposal regarding Version 6.1 of the clothes washer ENERGY STAR specification. We would be glad to discuss this matter further should you request.

Best Regards,



Jennifer Cleary
Director, Regulatory Affairs