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March 1, 2013

Submitted online

Hampton Newsome
Attorney, Division of Enforcement
Bureau of Consumer Protection
Federal Trade Commission
Room M-8102B
600 Pennsylvania Ave., NW
Washington, DC 20580

<https://ftcpublishcommentworks.com/ftc/energylabellranges>

Re: AHAM Comments; Energy Label Ranges; Matter No. R611004

Dear Mr. Newsome:

The Association of Home Appliance Manufacturers (AHAM) respectfully submits the following comments to the Federal Trade Commission (FTC or Commission) on its Proposed Rule and Proposed Conditional Exemption (Energy Label Ranges), Matter No. R611004, 78 Fed. Reg. 1779 (January 9, 2013).

AHAM represents manufacturers of major, portable and floor care home appliances, and suppliers to the industry. AHAM's more than 150 members employ tens of thousands of people in the U.S. and produce more than 95% of the household appliances shipped for sale within the U.S. 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 thanks the Commission for proposing to grant a conditional exemption and to require transitional labels for refrigerator/freezers and residential clothes washers during and after the transition to new test procedures and federal standards for those products. The Commission's proposal will reduce manufacturer burden during the transition and will avoid consumer confusion that would result without a conditional exemption and transitional EnergyGuide label. AHAM has a couple of minor suggestions for improving the Commission's proposed transitional

label as well as feedback on some of the Commission's other proposals, which are provided in detail below.

I. Conditional Exemption and Transitional EnergyGuide Label for Refrigerator/Freezers and Residential Clothes Washers

A. Conditional Exemption

In response to a proposal from AHAM, the Commission proposed to grant a conditional exemption from the requirement that, for purposes of the EnergyGuide label, manufacturers use the estimated annual energy consumption derived from the test procedures currently required by the Department of Energy (DOE). Under the proposal, manufacturers would remain obligated to comply with all other Energy Labeling Rule requirements. The Commission proposed the following conditions on the exemption:

1. For models manufacturers choose to test and label under the exemption, manufacturers must follow the new DOE test procedures in 10 C.F.R. Part 430, Subpart B, Appendix A (refrigerators) and Appendix J2 (clothes washers) to determine the energy use figures printed on the EnergyGuide labels;
2. For all such models, manufacturers must use EnergyGuide labels, as illustrated in Figures 1 and 2 of this Notice, with the energy cost and electricity use figures in yellow text framed by block boxes and containing the statement "Compare to other labels with yellow numbers. Appliances that have labels with black numbers were tested differently to estimate cost and electricity used."
3. For all such models, manufacturers must print the estimated energy cost on the label above the center of the comparability range, and the following statement must appear directly below the range: "Cost Range Not Available."
4. For all such models, the label must state that the estimated energy cost is based on a national average electricity cost of 12 cents per kWh; and
5. For all such clothes washer models, the label must state that the estimated energy cost is based on six wash loads per week and must provide capacity in cubic feet.

The Commission sought comment on the proposed exemption and associated amendments. In particular, the Commission requested input on whether the different results from the old and new DOE test procedures are significant enough to warrant the proposed label modifications. In addition, the Commission sought comment on whether the proposed label changes will help consumers in their purchasing decisions. The Commission specifically asked commenters to address whether the proposed labels will effectively communicate to consumers that they should not compare the old and new labels.

AHAM thanks the Commission for proposing to grant this conditional exemption, and, with a few minor modifications suggested below, fully supports the proposal. As AHAM commented when it proposed that the FTC address the refrigerator/freezer and residential clothes washer

transitions to new DOE test procedures and standards, the new test procedures will have a significant impact on measured energy. For refrigerator/freezers, we expect that the test procedure changes will increase measured energy by approximately 14%, though this will vary across product classes, manufacturers, and even individual models. For clothes washers, the impact of the new test procedure will vary by manufacturer and by model. These impacts not only warrant the proposed label modifications, but demand them because, without them, consumers will be confused. In particular, models of equal energy use will often appear to use more energy when tested under the new test procedures as opposed to the current test procedure. And, new models that are actually more efficient/use less energy than old models would often appear to use more energy based on the rated values using different test procedures. Thus, AHAM believes that the label changes will help consumers in their purchasing decisions.

In addition, the proposed labels will effectively communicate to consumers that they should not compare the old and new labels. The language explaining why the old and new labels should not be compared could, however, be strengthened. AHAM proposes the following language: “Compare only to other labels with yellow numbers. These appliances were tested according to new U.S. Government requirements.” This language is more specific as to the reason for the difference—the proposed language, “tested differently,” is ambiguous and leaves the reader wondering how and why the appliances were tested differently. AHAM’s proposed language gives consumers enough information to answer those questions without going into detail that would serve only to confuse consumers.

In order to maximize the helpfulness of the proposed label changes, AHAM also proposes that the Commission provide additional information regarding the transition on its website. Consumers may have questions about why the labels are different, and it would be useful for them to have a single, trusted source for information. The Commission’s webpage is referenced on the label as a resource, and, thus, is the logical place for that information. The educational information need not be voluminous, but should be clear and simple so that consumers who wish to know more than that there are new U.S. government requirements can access more information. AHAM would be glad to assist the Commission in developing this content.

With regard to the proposed conditions, AHAM notes that the first condition should also include reference to Appendix B, which is the revised test procedure for freezers. That test procedure includes many of the same changes as Appendix A, and freezers were included in AHAM’s proposal. We believe that those products are also intended to be covered in the conditional exemption the FTC has proposed—i.e., that the Commission intended to cover refrigerators, refrigerator-freezers, and freezers (collectively, refrigerator/freezers). Not including freezers via reference to Appendix B would lead to an absurd result where the test procedure changes would not be acknowledged for only those products.

AHAM provides further comments below on including clothes washer capacity in cubic feet on the label, as proposed in condition five, and given those comments, would also oppose including the capacity in cubic feet on the transitional label. AHAM does not, however, oppose including an updated reference to six wash loads per week on the label.

Other than these minor changes, AHAM fully supports the conditional exemption and the proposed label changes.

B. Dates for Conditional Exemption and Transitional Labeling

The Commission proposed to grant the conditional exemption only to the extent required to allow manufacturers to use the new test procedures on refrigerator/freezer and clothes washer models manufactured after January 1, 2014, for refrigerator/freezers and June 1, 2014, for clothes washers. AHAM supports those start dates for the conditional exemption.

The Commission also proposed, to ensure consistency in labeling after the exemption period, to amend the rule at 305.5(a) and 305.11 to require these new labels after the test procedure transition. Thus, under the FTC's proposal, the new labels would apply to all refrigerator/freezers and clothes washers manufactured¹ on, or after, the new DOE test procedure compliance dates (September 15, 2014 for refrigerator/freezers and March 7, 2015 for residential clothes washers). The Commission proposed to maintain the new label until DOE further amends the test procedures in the future beyond 2015 and, at that time, the Commission would consider changes to the label. AHAM agrees that the transitional labels should be maintained until the next DOE test procedure changes in order to minimize confusion to consumers.

C. Ranges of Comparability

In condition three of the proposed conditional exemption, the Commission proposed to temporarily remove the cost range from the label. When the FTC receives product data reflecting new and existing models tested under the new DOE test procedures, it proposed to issue new comparability ranges for those products. The Commission stated that it would publish range information for the new labels once energy data becomes available, most likely in 2015. AHAM agrees that, until such time as data is available, it is appropriate to eliminate the cost ranges. When data is available, AHAM agrees that the Commission should publish new range information.

II. Proposed Revisions and Updates to Label Content

A. Range and Cost Information Revision Schedule

Based on comments submitted to the FTC suggesting that it should follow a three year schedule (two years for some products) to update the national average energy cost figures and ranges of comparability, FTC sought comment on whether to update range and cost information more frequently than every five years. The Commission noted that, in establishing the five year

¹ The NOPR states that the new labels would apply to all refrigerator/freezers and clothes washers *distributed* on, or after, the new DOE test procedure compliance dates (September 15, 2014 for refrigerator/freezers and March 7, 2015 for residential clothes washers). AHAM assumes that, consistent with the proposal the Commission meant “manufactured,” not “distributed,” consistent with the Commission’s proposal to grant the conditional exemption only to the extent required to allow manufacturers to use the new test procedures on refrigerator/freezer and clothes washer models *manufactured* after January 1, 2014, for refrigerator/freezers and June 1, 2014, for clothes washers.

revision schedule, it recognized the potential benefits of more frequent changes, but concluded that the need for consistent label information is paramount and, on balance, deserves greater weight than the need for more frequent updates. AHAM agrees.

As the Commission stated, frequent label changes should be minimized because inconsistent cost and range information for competing models in showrooms and catalogs can lead to consumer confusion and a lack of confidence in the label. AHAM agrees with the Commission that the existing five year schedule for revisions to the cost and range information strikes a reasonable balance between maintaining consistent disclosures and providing frequent updates.

Accordingly, AHAM supports the Commission's preliminary decision not to change the existing schedule and would oppose a proposal for a more frequent revision schedule.

In addition, AHAM believes that there should be complete harmonization between the United States and Canada on labeling issues. We plan to urge Canada to adopt the same revision schedule as the Commission, and so we would urge the Commission to assist in such harmonization efforts in Canada.

B. New Room Air Conditioner Disclosure

The FTC proposed to include a new disclosure on room air conditioners explaining that the cost estimate is based on an assumed 750 hours of operation per year. AHAM does not oppose this proposal.

C. Clothes Washer Capacity

The Commission again proposed to require specific capacity information in cubic feet on EnergyGuide labels for clothes washers. As mentioned above, this requirement would extend to the conditional exemption. The Commission stated that it does not believe the general capacity disclosure currently on the label provides much assistance to consumers in distinguishing washer size and reasoned that a specific capacity disclosure on the label should help consumers make important product comparisons.

AHAM continues to oppose the Commission's proposal to include specific capacity information in cubic feet on the EnergyGuide label for clothes washers.² The Commission has not cited any data showing that consumers do not find the already existing capacity information manufacturers provide through other sources to be sufficient. The Commission stated that the presence of capacity information allows consumers to easily consider size and energy cost of models as they compare products in showrooms and on websites without repeatedly crosschecking washer

² AHAM notes that it uses the term "capacity" in these comments because the Commission has used that term and the current DOE regulations use that term as well. But a better term to describe a measurement of the cubic footage of the washer drum would be "volume." The term "capacity," as AHAM typically uses it, refers to the quantity of clothes that can be effectively washed and rinsed in a single load. As the Commission knows, AHAM is currently working to develop a test procedure that may enhance the communication of useable washer capacity information, beyond volume, to the consumer when making a purchase decision among a wide variety of product choices. When completed, this procedure would be voluntary; however, AHAM may present it to DOE for proposed incorporation into DOE's test procedure for clothes washers.

capacity disclosed elsewhere in specifications and other marketing material. But the Commission has not shown that consumers find it difficult to reference capacity from those sources as compared to the energy cost information on the EnergyGuide label. Accordingly, the Commission should not add this new requirement.

D. Refrigerator Comparability Range Categories

Some commenters urged the Commission to consolidate the comparability ranges for refrigerator/freezers into a single range covering all refrigerator/freezer configurations. AHAM opposed this approach in previous comments arguing, among other things, that absent clear data on consumer shopping habits, the Commission should refrain from changing the current ranges. The Commission did not propose changes stating that without more information on consumer buying habits, it is reluctant to alter existing requirements. AHAM agrees that the Commission cannot change the current requirements without supporting data on consumer shopping habits. Accordingly, we support the Commission's decision not to propose consolidation of the comparability ranges for refrigerator/freezers.

E. Refrigerator Models with Optional Icemakers

A kitable/icemaker ready model is a refrigerator/freezer that leaves the manufacturer's warehouse without an icemaker, but in which an icemaker could later be installed.³ As we have previously described, the icemaker could be installed at several points in the distribution chain, including by the retailer or the end user. In addition, as the Department of Energy (DOE) has recognized, it is not always the case that only the same manufacturer's ice maker need be installed—another manufacturer's icemaker may be compatible. (*See* 77 Fed. Reg. 3559, 3568 (Jan. 25, 2012)).

AHAM previously submitted comments proposing that the Commission require on the EnergyGuide label for refrigerator/freezer models with optional icemakers the energy use of the model shipped without the icemaker along with language to inform consumers that the addition of an icemaker will increase the model's energy cost. The Commission agreed that the proposal merits consideration, but stated that DOE plans to examine its designation of such models and, thus, may provide guidance that addresses AHAM's concerns.

AHAM wishes to clarify the status of DOE's consideration of kitable/icemaker ready models and re-submits its proposal for FTC to address the accompanying labeling issues.

The new refrigerator-freezer test procedure, use of which will be required in 2014, will account for icemaking energy via a constant adder of 84 kWh per year. That adder is uniform across all models and manufacturers and represents the amount of energy DOE has determined it takes to make a certain amount of ice per year. Because of this change to the test procedure, an issue arises for icemaker ready models. DOE has decided that those models must be certified as two

³ Note this clarification from earlier comments and DOE's discussion in the Test Procedure Final Rule, 77 Fed. Reg. 3559, 3568 (Jan. 25, 2012), which indicated that kitable models could leave the factory with or without an icemaker. We clarify that manufacturers only consider a model to be "kitable" or "icemaker ready" if it leaves the factory without the icemaker.

separate models (i.e., with an automatic icemaker and without an automatic icemaker) because a consumer may purchase either version. See 76 Fed. Reg. 57516, 5739 (“prior to the development of a manual icemaking factor to account for this energy use, better consistency with the test procedure will be maintained by certifying kitable models as two separate models (i.e., with an automatic icemaker and without an automatic icemaker), since a consumer may purchase either version”). To clarify, DOE has made its final determination with regard to kitable models for the time period during which this constant adder is in place, and AHAM’s current proposal applies only to this time period—it does not extend to a time in the near future when icemaker energy use will be measured (as opposed to being accounted for by a constant adder).

As AHAM previously commented, we strongly urge the Commission not to follow an approach for labeling that parallels DOE’s certification requirements. Specific issues such an approach would create include:

- We understand from DOE that it may have been contemplated that the value reported on the EnergyGuide label for kitable models would depend on how the unit is sold. That approach is impossible to carry out in practice because manufacturers treat kitable models as one model. In addition, an icemaker can be added to a kitable model at different times, and so it would be impossible to know which label to include. For example, the icemaker could be added by the retailer at the point of sale or by the consumer after purchasing the refrigerator/freezer. Given the many different times at which the icemaker could be added, which label would be required to be put on the product, at which time, and under which circumstance?
- If the Commission were to follow DOE’s approach, the consumer will not always get the claimed energy or better. For example, a consumer who purchases a kitable model without the icemaker installed and then later decides to install the icemaker would not be aware of the exact amount of added energy use.
- As far as AHAM is aware, all manufacturers assign kitable models with one model number and treat them as a single model. It is unclear from DOE’s final rule if, in order to certify products, manufacturers would need to create two model numbers for kitable units. AHAM opposes that approach because it would mean that manufacturers would need to overhaul their model numbering schemes, which is impossible given that when these models leave the warehouse, they do so in the same way every time—without the icemaker. (We requested guidance from DOE on this issue, see Attachment A. We do not expect the resulting guidance, when issued by DOE, to impact the labeling of these models.)
- Because manufacturers necessarily assign icemaker ready models one model number, DOE’s approach, if extended to the EnergyGuide label, will create confusion among manufacturers and consumers. Consumers could see the same model on the floor with different energy claims and different estimated yearly operating costs.

Given these problems, AHAM previously proposed, and again proposes, that the Commission require only one EnergyGuide label for icemaker ready models. Specifically, we propose that

the value on the label be the energy use without the icemaker for the duration of time that the icemaker adder of 84 kWh is in place. This approach makes better sense because when the icemaker ready model leaves the manufacturer's factory, it does not have an icemaker and may never get one. The consumer should, however, know of the consequences of later adding an icemaker and, if the retailer has already installed one, should know what the energy consumption of that unit is likely to be with the icemaker. Thus, we propose that, in addition to the annual operating cost to operate the unit without the icemaker, the Commission require a statement on the label indicating what energy use will be if an icemaker is installed: "With an icemaker, estimated yearly electricity use is estimated to increase by 84 kWh/year, which adds \$ 9 to the estimated yearly operating cost." This statement could be placed in the bulleted list of statements at the bottom of the label or in another location the Commission deems appropriate. Because icemaker energy under the test procedure will be a uniform adder, this statement would be the same on every icemaker ready unit. This approach represents a bright line rule that is easy to apply and enforce. It is also the clearest and most accurate approach because one model number will have one energy label, and consumers will be able to see the energy use that corresponds to how they purchase the product and will understand the energy consequences of later installing an icemaker should they choose to do so.

It is important to note that, together with energy efficiency advocates, AHAM has submitted to DOE a test procedure for measuring ice maker energy use. We expect that DOE will soon open a rulemaking to propose and finalize that test procedure and that compliance with that test procedure will be required in the next few years. This test procedure change will also likely result in a standards change (a crosswalk to ensure that the stringency of the standard does not change). At that time, we expect that the transitional label the Commission proposed during the transition to the 2014 refrigerator/freezer standards would end in order to address the transition to measured icemaker energy use. We would also anticipate that labeling of icemaker ready units will need to be reconsidered at that time depending on the direction DOE takes with regard to these models. Once icemaker energy is measured, there will be additional issues that arise. For example, it is possible that more than one icemaker could be installed into the same icemaker ready model, and thus, it may be difficult or impossible for the manufacturer to predict the exact energy use of the icemaker for an icemaker ready model. We expect to address this and other issues with DOE during the test procedure rulemaking and will make a labeling proposal to the FTC depending on the resolution of those issues. To be clear, as mentioned above, the issues attending measured icemaker energy use are the open issues DOE intends to address and that the FTC cited in its discussion of AHAM's proposal.⁴ AHAM's current proposal to the FTC does

⁴ See 77 Fed. Reg. 3559, 3569 ("DOE notes that any approach eventually adopted for kitable models must ensure that both versions of the kitable model (i.e. sold either with or without the icemaker) meet their respective energy standards. DOE notes that this goal would automatically be achieved with the new standards and new test procedures as represented by the September 2011 standards final rule and this test procedure final rule notice, since both the test procedure and the standards apply a fixed value of 84 kWh (to represent icemaker energy consumption) to the measured energy use of a product when configured without an icemaker—this new value represents the energy use of an icemaker-equipped version of that product. This situation will likely change once a laboratory-based procedure is implemented for measuring icemaking energy use, as is contemplated in a future rulemaking. Consideration of an approach to address kitable models would, in all likelihood, be more appropriately addressed as part of a

not extend to the time when icemaker energy use is measured, but is, instead limited only to the time during which the 84 kWh/year fixed adder is in place.

F. Rounding to the Nearest Cent

The FTC proposed to round to the nearest cent the national average electricity and natural gas cost figures in Appendix K used to calculate the label's estimated operating (energy) cost. AHAM does not oppose that proposal.

G. Removal of Reference to Cost Rate Year

The Commission proposed to simplify the EnergyGuide label's cost disclosure by eliminating reference to the cost rate's year in section 305.11(f). Under this proposal, the label would read "based on a national average electricity cost of * * *." The FTC reasoned that energy rates can increase and decrease from year to year and that consumers may assume that the product itself was produced in 2007.

AHAM supports the proposal to eliminate the reference to the cost rate's year because it will add clarity for and be helpful to manufacturers.

III. Comparability Range and Energy Cost Revisions

The FTC proposed that manufacturers begin using the new comparability ranges and cost information within 90 days after publication of the final rule. AHAM suggests that the FTC allow manufacturers more time to comply—180 days instead of 90 days. More time will help ensure proper compliance. In addition, the additional time will help to ensure that there is less waste of EnergyGuide labels that have already been printed.

IV. Alternate Hang Tag Placement

AHAM proposes that the Commission revise 16 C.F.R. 305.11(e)(2) as follows (proposed revisions indicated in redline):

Hang tags. A hang tag shall be affixed to the interior or exterior of the product in such a position that it can be easily read by a consumer examining the product. A hang tag can be affixed in any position that meets this requirement as long as the label will not become dislodged during normal handling throughout the chain of distribution to the retailer or consumer.

This revision gives more flexibility to manufacturers to determine where a hang tag could best be placed in order to ensure that it can be easily read by the consumer examining the product, considering the wide range of methods retailers use to display products. As AHAM explained in our previous comments on this rulemaking, adhesive labels are not desirable on many popular product finishes, such as stainless steel. AHAM's proposal to allow hang tags on the exterior of

future rulemaking to decide whether to incorporate such a laboratory-based icemaking energy use measurement") (emphasis added).

the product would provide an alternative to adhesive labels. Because the requirements that the label not become dislodged, manufacturers will only be able to place hang tags on the exterior of the product if they believe the regulation's other requirements can be satisfied.

If the Commission does not implement our proposal, we request that it specifically allow hang tags to be placed in a clothes washer's dispenser drawer. The dispenser drawer in a front-load clothes washer is the drawer in which the user puts detergent and other additives to the wash load. This is often a more visible place for the hang tag, especially if retailers choose to stack front loading models, thus hiding an adhesive label on the top of the unit. Our proposal above would permit this, as well.

V. Retailer Responsibility

The Commission's regulations, 10 C.F.R. 305.4, prohibit manufacturers, distributors, retailers, and private labelers from knowingly removing or rendering illegible any marking or label required by the rule. The Joint Comments submitted on December 3, 2012, by ACEEE, NRDC, and others argued that the Commission must amend its rules to make retailers responsible for compliance.

AHAM agrees that retailer responsibility needs to be addressed, though perhaps not via a rule change given that the rule already prohibits removal or rendering illegible the EnergyGuide label, as referenced above. AHAM believes that it is beneficial to ensure that consumers are able to easily and readily access the information on the EnergyGuide label. We note that missing labels on showroom floors, for example, are not the manufacturer's responsibility. Once the units leave the factory, they are no longer under the manufacturer's control. In fact, retailers become the owners of the products they sell to consumers. In order to address issues of missing labels on showroom floors, therefore, the Commission should consider these facts as it decides where to focus its enforcement discretion.

AHAM appreciates the opportunity to submit these comments on the FTC's Proposed Rule and Proposed Conditional Exemption, and we would be glad to further discuss this matter should you so request.

Respectfully Submitted,



Jennifer Cleary
Director, Regulatory Affairs

ATTACHMENT A



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November 7, 2012

Via E-Mail

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Re: AHAM Request for Guidance Regarding Refrigerator/Freezer Certification

The Association of Home Appliance Manufacturers (AHAM) respectfully submits the following request for guidance regarding the certification of refrigerator/freezers equipped with the option to install an automatic icemaker (“kitable” or “icemaker ready” models) under 10 C.F.R. 429.12 and 429.14.

AHAM represents manufacturers of major, portable and floor care home appliances, and suppliers to the industry. AHAM’s more than 150 members employ tens of thousands of people in the U.S. and produce more than 95% of the household appliances shipped for sale within the U.S. 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.

A kitable/icemaker ready model is a refrigerator/freezer that leaves the manufacturer’s warehouse without an icemaker, but in which an icemaker could later be installed.¹ As we have previously described, the icemaker could be installed at several points in the distribution chain, including by the retailer or the end user. In addition, as DOE has recognized, it is not always the case that only the same manufacturer’s ice maker need be installed—another manufacturer’s icemaker may be compatible. (*See* 77 Fed. Reg. 3559, 3568 (Jan. 25, 2012) (Test Procedure Final Rule)).

¹ Note this clarification from earlier comments and DOE’s discussion in the Test Procedure Final Rule, 77 Fed. Reg. 3559, 3568 (Jan. 25, 2012), which indicated that kitable models could leave the factory with or without an icemaker. We clarify that manufacturers only consider a model to be “kitable” or “icemaker ready” if it leaves the manufacturer without the icemaker.

AHAM commented that kitable models should be certified as if they have an icemaker. We believed that would be the simplest, clearest approach, and would also ensure that consumers receive a product that would have energy use no more than the rated value. DOE declined to adopt our proposed approach. (*See* 76 Fed. Reg. 57516, 57539 (Sept. 15, 2011); 77 Fed. Reg. at 3568). Instead, DOE determined that kitable models must be certified “as two separate models (*i.e.*, with an automatic icemaker and without an automatic icemaker), since a consumer may purchase either version.” (76 Fed. Reg. at 57539).

Manufacturers need more detail about how this is to be done in order to plan and begin certifying their kitable/icemaker ready models. Accordingly, AHAM asks DOE for guidance clarifying how kitable models are to be certified. AHAM suggests the following approach until such time as icemaker energy is no longer indicated by a fixed value:

1. DOE should not require separate model numbers because manufacturers assign only one model number to icemaker ready models. It is impossible for a manufacturer to know whether or not any individual unit or model will have an icemaker installed at any point in time. When these models leave the manufacturer, they do so in the same way every time—without an icemaker—and, so, it would be impossible to assign two separate model numbers to these products.
2. Because there can only be one model number, DOE should ensure that the certification spreadsheet is updated to accommodate kitable models. In particular, AHAM suggests that DOE add a column asking whether the model is icemaker ready. If yes is selected, then other fields must be filled out, including the product class the model will be if an icemaker is installed and the energy use (which will simply add 84 kWh to the certified energy use already certified).

At such time as the incremental energy required to make ice is measured (instead of being represented by a fixed value of 84 kWh), DOE will need to address in more detail how kitable/icemaker ready models are to be certified. At that time, testing burden issues as well as concerns about the fact that third party manufacturer icemakers could later be installed will need to be considered. AHAM agrees with DOE’s determination that notice and comment rulemaking is the best approach. (*See* 77 Fed Reg. at 3569) (stating that “[t]his situation will likely change once a laboratory-based procedure is implemented for measuring icemaking energy use, as is contemplated in a future rulemaking. Consideration of an approach to address kitable models would, in all likelihood, be more appropriately addressed as part of a future rulemaking to decide whether to incorporate such a laboratory-based icemaking energy use measurement. DOE adds that the full rulemaking process would allow the issues associated with kitable models to be thoroughly considered and reviewed by stakeholders, thus ensuring that the adopted approach is vetted and acceptable to all affected parties”).

We respectfully request that DOE address this guidance request promptly. Although mandatory compliance with the 2014 standards and test procedure does not begin until September 15, 2014, product planning is underway now. Furthermore, DOE has permitted early compliance with the revised standards and test procedure, and, so, the proper mechanisms for certifying products to

the 2014 standards with Appendices A and B need to be in place soon. This will be especially true should EPA move forward with an ENERGY STAR effective date prior to the mandatory standards compliance date (an approach which AHAM has opposed).

AHAM appreciates the opportunity to seek guidance clarifying certification of refrigerator/freezers equipped with the option to install an automatic icemaker, and would be glad to further discuss this matter.

Respectfully Submitted,

Jennifer Cleary
Director, Regulatory Affairs

cc: Lucas Adin, DOE