

**Guidance Concerning Applicable Sampling Plan
for Certification of Consumer Products**

The Energy Policy and Conservation Act of 1975, as amended, (EPCA or the “Act”) authorizes the 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. 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 10 CFR part 430, subpart F.

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). To determine whether a basic model meets the applicable energy conservation standard, a manufacturer must conduct testing in accordance with 10 CFR 430.23, which references the applicable test procedure found in an appendix to 10 CFR part 430, subpart B. The test procedures in Subpart B do not specify how many units to test or how to interpret the results of testing multiple units. Sampling provisions are located in 10 CFR 430.63 (subpart F), which references 10 CFR 430.24.

It has come to the attention of the DOE that some manufacturers are applying the sampling procedures of 10 CFR part 430, subpart F, appendix B, for purposes of certifying compliance. The Sampling Plan for Enforcement Testing is used by DOE when conducting enforcement testing under 10 CFR 430.70; manufacturers may not use it to certify compliance.

For purposes of a certification of compliance, the determination that a basic model complies with the applicable energy or water conservation standard must be based on the sampling procedures in 10 CFR 430.24. 10 CFR 430.63(a). The only exception is provided in 10 CFR 430.63(b) for air conditioners. That exception permits a manufacturer to use an alternate rating method (ARM) if, after a manufacturer has submitted a complete ARM application to DOE, the Assistant Secretary of Energy Efficiency and Renewable Energy has approved the manufacturer's use of that ARM for certification purposes.

Some paragraphs of 10 CFR 430.24 specify a minimum number of units to be tested. Where the regulation is silent, a minimum of two units must be tested. This minimum is implicit in the requirement to calculate a mean – an average – which requires at least two values. Under no circumstances is a sample size of one (1) authorized.

Generally, a manufacturer must determine compliance based on either (A) the mean of the sample, or (B) the specified confidence limit divided by a specified number, whichever would result in a value more favorable to consumers. The applicable confidence limit and coordinated divisor are specific to each product type. The calculated value resulting from (A) or (B) is the value the manufacturer must use to determine compliance with the standard. In addition, this calculated value is the value that should be reported in the certification report.

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.