

## **Enforcement Policy Statement – Pending Test Procedure Waiver Applications**

Issued: December 23, 2010

Re-issued: April 5, 2017

DOE regulations (10 C.F.R. 430.27 and 10 C.F.R. 431.401) allow an interested person to apply for a waiver from the DOE test procedure where the basic model contains one or more design characteristics that either prevent testing of the basic model according to the prescribed test procedure or cause the prescribed test procedure to evaluate the basic model in a manner so unrepresentative of its true energy or water consumption characteristics as to provide materially inaccurate comparative data. DOE recognizes that product innovations will always outpace DOE's rulemaking efforts. Thus, to encourage waivers and prevent the Department's administrative waiver process from delaying or deterring the introduction of novel, innovative products into the marketplace, the Department, as a matter of policy, will refrain from an enforcement action related to a specific basic model while a waiver request is pending with the Department.

We note that the Department's authority on this matter is limited to compliance with the Federal energy conservation standards and DOE's implementing regulations. The Federal Trade Commission, which has regulatory authority over manufacturers' representations of energy use or energy efficiency for certain consumer products, is not bound by this policy. U.S. Customs and Border Protection, which has independent enforcement authority related to the importation of products and equipment that do not comply with the Federal energy conservation standard(s) is not bound by this policy.