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**John Q. Easton,**

*Director, Institute of Education Science.*

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## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

[Docket No. EERE-BT-2013-DET-0017]

#### Energy Efficiency Program for Industrial Equipment: Interim Determination Classifying UL Verification Services Inc. as a Nationally Recognized Certification Program for Small Electric Motors

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Notice of interim determination and request for public comments.

**SUMMARY:** This notice announces an interim determination by the U.S. Department of Energy (DOE) classifying UL Verification Services (UL) as a nationally recognized certification program under 10 CFR 431.447 and 431.448.

**DATES:** DOE will accept comments, data, and information with respect to the UL Petition until October 17, 2013.

**ADDRESSES:** You may submit comments, identified by docket number "EERE-BT-2013-DET-0017," by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **Email:**

[CertProgSmElecMotors2013DET0017@ee.doe.gov](mailto:CertProgSmElecMotors2013DET0017@ee.doe.gov) Include the docket number EERE-BT-2013-DET-0017 in the subject line of the message.

- **Mail:** Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE-2/J/1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 586-2945. Please submit one signed original paper copy.

- **Hand Delivery/Courier:** Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Please submit one signed original paper copy.

**Docket:** For access to the docket to review the background documents relevant to this matter, you may visit the U.S. Department of Energy, 950 L'Enfant Plaza SW., Washington, DC, 20024; (202) 586-2945, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at the above telephone number for additional information.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Lucas Adin, U.S. Department of Energy, Building Technologies Office, Mail Stop EE-2J, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 287-1317. Email: [Lucas.Adin@ee.doe.gov](mailto:Lucas.Adin@ee.doe.gov).

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC-71, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585-0103. Telephone: (202) 586-8145. Email: [Michael.Kido@hq.doe.gov](mailto:Michael.Kido@hq.doe.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background and Authority

Part C of Title III of the Energy Policy and Conservation Act contains energy conservation requirements for, among other things, electric motors and small electric motors, including test procedures, energy efficiency standards, and compliance certification requirements. 42 U.S.C. 6311-6316.<sup>1</sup> Section 345(c) of EPCA directs the Secretary of Energy to require manufacturers of electric motors "to certify through an independent testing or certification program nationally recognized in the United States, that [each electric motor subject to EPCA

efficiency standards] meets the applicable standard." 42 U.S.C. 6316(c).

Regulations to implement this statutory directive are codified in Title 10 of the Code of Federal Regulations Part 431 (10 CFR Part 431) at sections 431.36, Compliance Certification, 431.20, Department of Energy recognition of nationally recognized certification programs, and 431.21, Procedures for recognition and withdrawal of recognition of accreditation bodies and certification programs. Sections 431.20 and 431.21 set forth the criteria and procedures for national recognition of an energy efficiency certification program for electric motors by DOE. With the support of a variety of interests, including industry and energy efficiency advocacy groups, DOE published a final rule on May 4, 2012, that established requirements for small electric motors that are essentially identical to the criteria and procedures for national recognition of an energy efficiency certification program for electric motors. See 77 FR 26608, 26629 (codifying parallel provisions for small electric motors at 10 CFR 431.447 and 431.448).

For a certification program to be classified by the DOE as being nationally recognized in the United States for the testing and certification of small electric motors, the organization operating the program must submit a petition to the Department requesting such classification, in accordance with §§ 431.447 and 431.448. In sum, for the Department to grant such a petition, the certification program must: (1) Have satisfactory standards and procedures for conducting and administering a certification system, and for granting a certificate of conformity; (2) be independent of small electric motor manufacturers, importers, distributors, private labelers or vendors; (3) be qualified to operate a certification system in a highly competent manner; and (4) be expert in the test procedures and methodologies in IEEE Standard 112-2004 Test Methods A and B, IEEE Standard 114-2010, CSA Standard C390-10, and CSA C747 or similar procedures and methodologies for determining the energy efficiency of small electric motors, and have satisfactory criteria and procedures for selecting and sampling small electric motors for energy efficiency testing. 10 CFR 431.447(b).

Each petition requesting classification as a nationally recognized certification program must contain a narrative statement as to why the organization meets the above criteria, be accompanied by documentation that

<sup>1</sup> For editorial reasons, upon codification in the U.S. Code, Part C was re-designated Part A-1.

supports the narrative statement, and be signed by an authorized representative. 10 CFR 431.447(c).

## II. Discussion

Pursuant to sections 431.447 and 431.448, on February 20, 2013, UL submitted to the Department a Petition for “Classification in Accordance with 10 CFR Part 431.447 and 431.448” (“Petition” or “UL Petition”). The Petition was accompanied by a cover letter from UL to the Department, containing five separate sections that included narrative statements for each—(1) Overview, (2) Standards and Procedures, (3) Independent Status, (4) Qualification of UL LCC and UL Verification Services, Inc. to Operate a Certification System, and (5) Expertise in Small Motor Test Procedures. In accordance with the requirements of § 431.448(b), DOE published UL’s petition in the **Federal Register** on May 16, 2013 and requested public comments. 78 FR 28812.

In response to that notice, the National Electrical Manufacturers Association (NEMA), a trade association representing manufacturers of electrical products including small electric motors, submitted comments to DOE in a letter dated June 17, 2013 (Comment response to the published Notice of Petition, No. 5). In these comments, NEMA cited several concerns regarding UL’s petition, listing them according to each item on which DOE requested comments in the notice of petition. UL then submitted a letter to DOE dated June 26, 2013 responding to NEMA’s comments (Comment responding to NEMA’s comments on UL petition, No. 6).

Regarding DOE’s issue for comment on whether UL has satisfactory standards and procedures for conducting and administering a certification program, NEMA stated that UL operates an effective certification system for safety standards and, though it is new to certification of electric motor efficiency, offers certification programs for “EISA type” electric motor certifications (i.e., certification to the current DOE efficiency standards for electric motors). It also stated that as far as its members are aware, UL does not perform efficiency testing itself and instead uses outside labs for testing such as manufacturer labs or third-party labs such as Advanced Energy. (Comment response to the published Notice of Petition, No. 5, p. 3) UL rebutted NEMA’s statement that it is new to the motor efficiency certification market by stating that it has been certifying motors for energy efficiency for 11 years and has been recognized by

DOE for certification of electric motors under 10 CFR part 431.<sup>2</sup> In response to NEMA’s comment about its use of manufacturer and third-party laboratories, UL explained that because it currently certifies motors rated between 1 and 500 horsepower, many of the motors are large enough that the cost of shipping the motor could exceed the cost of the testing, making it impractical for UL to conduct testing in-house. UL stated that it instead sends a motor engineer to the manufacturer or third-party lab to witness the testing and verify the proper setup and conduct of the tests. (Comment responding to NEMA’s comments on UL petition, No. 6, p. 1)

In response to DOE’s request for comment regarding UL’s expertise in the procedures and methodologies required by DOE for certification of small electric motors, NEMA stated that UL is not recognized as an expert in this area and does not participate in the development or revision of the applicable industry standards. NEMA also stated that, while UL’s test capability is limited by its use of manufacturer or third-party laboratories, its proficiency in other types of testing demonstrates their capability to obtain the necessary expertise for motors testing by participating in review of the test standards. More specifically, NEMA stated that it is not familiar with UL’s capability to conduct in-house tests in accordance with the prescribed test methods and does not believe the information in UL’s petition provides sufficient information to determine UL’s knowledge or capability. NEMA also noted that UL is not listed in the Directory of Accredited Laboratories for Efficiency Testing of Electric Motors on the Web site of the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology (NIST). (Comment response to the published Notice of Petition, No. 5, pp. 3–4) In response, UL stated that, while participation in the standards development process provides an opportunity to offer technical expertise, it does not lead to the attainment of such expertise. Responding to NEMA’s assertion that UL lacks NVLAP accreditation, UL stated that it had no practical or business need to attain such accreditation, since DOE has previously recognized UL as a nationally recognized certification program for electric motors. (Comment responding

to NEMA’s comments on UL petition, No. 6, p. 2)

NEMA also commented on several specific issues on which DOE requested comment regarding whether it should grant UL’s petition for recognition. Specifically, NEMA objected to UL’s requirement that motors tested for efficiency in the program would also be required to be tested for compliance with UL’s Motor Safety Standard(s), and stated that DOE should specifically state that such participation in UL programs other than energy efficiency testing must be on a voluntary basis. (Comment response to the published Notice of Petition, No. 5, p. 4) UL responded that the requirement for motors to meet safety standards at their rated horsepower is essential to ensuring the product’s safe operation under its rated conditions and that it would be unwilling to endorse through the use of its mark (i.e., the UL safety marking) that a tested motor that has not undergone this safety-related testing can safely operate at the manufacturer’s declared rating. UL also noted that manufacturers who are unwilling to pursue safety certification have other options, and need not attain DOE certification using their program. (Comment responding to NEMA’s comments on UL petition, No. 6, p. 2)

NEMA also objected to UL’s stated sampling requirements for audit testing and verification of the manufacturer’s alternative efficiency determination method (AEDM) (*see* 78 FR at 28818–28819), and recommended that DOE clarify that these requirements are solely within DOE’s jurisdiction. NEMA disagreed with UL’s stated minimum sample of 20% of the manufacturer’s initial product submittal due to the testing and financial burden it may impose, since there may be tens of thousands of designs for a type of covered equipment. (Comment response to the published Notice of Petition, No. 5, p. 4) UL responded that its “Follow-up Services (FUS)” is designed to ensure that products that it has tested and certified continue to meet the prescribed requirements and that the unit of the model that was initially tested is representative of production units. UL also explained that it set its specified sampling requirement based upon its own experience and in the absence of a DOE-established sampling requirement, and that it would adhere to any specific requirements established by DOE. (Comment responding to NEMA’s comments on UL petition, No. 6, p. 2)

NEMA also commented on several other items regarding UL’s petition. This included UL’s independence from small electric motor manufacturers, importers,

<sup>2</sup> DOE issued a final determination on December 27, 2002 classifying UL as a nationally recognized certification program for electric motor efficiency. *See* 67 FR 79490 (December 27, 2002).

distributors, private labelers, or vendors, on which NEMA stated that it agrees that UL is independent in that it is not under the control of any such entities, and that it does not view the fees UL charges for its certification services as presenting a conflict with this requirement. NEMA also pointed out that in its petition UL incorrectly cited to requirements for electric motors in 10 CFR 431.17(a)(b), which are not applicable to small electric motors.<sup>3</sup> (Comment response to the published Notice of Petition, No. 5, pp. 3–4) UL did not respond to these specific comments.

Finally, NEMA made a number of general comments stating its opposition to the granting of UL's petition on the grounds that DOE has not yet sufficiently established definitions and certification requirements applicable to small electric motors. Specifically, NEMA stated that because DOE has not yet established in Subpart X to Part 431 definitions for the terms "certificate of conformity," "certification program," and "certification system" as exist in § 431.12, DOE has not yet provided a basis on which to determine whether a particular certification program should be recognized. NEMA also pointed out that the UL referred to the petition as for "electric motors" rather than for "small electric motors," which could confuse the scope of UL's authority. NEMA recommended that either UL correct this aspect of its petition or that DOE specify that the authority extends only to small electric motors. NEMA further stated that, while it opposes the granting of the petition for these reasons, it supports the recognition of independent entities to assist in testing and certification of small electric motors and opposes any action that may reduce the options for certification. In NEMA's view, UL's petition could be reasonably considered only after the previously stated issues are addressed. (Comment response to the published Notice of Petition, No. 5, pp. 2, 5)

In reviewing NEMA's comments on the UL petition, and UL's responses to these comments, DOE finds no specific cause to reject UL's request for recognition as a nationally recognized certification program for small electric motors. This determination is based primarily on DOE's previous recognition of UL as a nationally recognized certification program for electric motors,

the sampling and testing requirements for which are substantially the same. In regard to NEMA's specific comments regarding the requirement for adherence to UL's safety testing requirements and the proposed sampling requirements for small electric motors, DOE notes that these requirements are in addition to, and not in place of, the requirements for small electric motor testing and certification and do not represent a mandatory requirement from DOE's perspective. As UL correctly noted, manufacturers may choose not to participate in its program, and pursue certification through another process that does not involve its prescribed safety testing or follow-up audit and verification testing. Thus, a certification program may have such requirements in place without conflicting with the basic DOE requirements for certification. DOE also notes that such requirements already exist in UL's nationally recognized certification program for electric motors.

With respect to NEMA's general comment that the granting of UL's petition at this time would be premature due to the absence of certain definitions in subpart X to 10 CFR part 431, while DOE understands that a need may exist for greater clarification of certain aspects of the testing and certification requirements applicable to small electric motors, the absence of these definitions in Subpart X does not in itself preclude DOE from classifying UL's, or any other organization that presents sufficient documentation, pursuant to the requirements in § 431.447, that demonstrates that its program is capable of meeting, at a minimum, the testing and certification requirements in §§ 431.444 and 431.445. To the extent DOE finds that any of the certification requirements for small electric motors are not sufficiently clear, DOE will seek to provide further specificity through a future rulemaking or through guidance, as appropriate. In any case, UL or any other certification program recognized by DOE pursuant to § 431.448 must operate its certification program in conformance with any specific certifications requirements or guidance promulgated by DOE.

DOE also notes that NEMA's comment regarding the scope of UL's petition is correct in that the applicable section for small electric motors is § 431.445 rather than the cited requirements in § 431.17. While DOE declines to reject UL's petition solely on this basis, DOE confirms that the authority granted to UL under this interim determination extends only to testing and certification of small electric motors under subpart X of 10 CFR part 431.

The Department hereby announces its interim determination pursuant to 10 CFR 431.448(d) that UL is classified as a nationally recognized certification program for small electric motors, and will accept comments on this interim determination until October 17, 2013. Any person submitting written comments to DOE with respect to this interim determination must also, at the same time, send a copy of such comments to UL. As provided under § 431.448(c), UL may submit to the Department a written response to any such comments. After receiving any such comments and responses, the Department will issue a final determination on the UL Petition, in accordance with § 431.448(e) of 10 CFR part 431.

Issued in Washington, DC, on September 11, 2013.

**Kathleen B. Hogan,**

*Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.*

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## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

[Case No. RF–031]

#### **Decision and Order Granting a Waiver to Panasonic Appliances Refrigeration Systems Corporation of America Corporation (PAPRSA) From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedures**

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Decision and order.

**SUMMARY:** The U.S. Department of Energy (DOE) gives notice of its decision and order (Case No. RF–031) granting Panasonic Appliances Refrigeration Systems Corporation of America (PAPRSA) a waiver from the DOE electric refrigerator and refrigerator-freezer test procedures for determining the energy consumption of residential refrigerator-freezers for the basic models set forth in its petition for waiver. Under today's decision and order, PAPRSA shall be required to test and rate its hybrid wine chiller/beverage center basic models using an alternate test procedure that requires PAPRSA to test the wine chiller compartment at 55 °F instead of the prescribed temperature of 38 °F. PAPRSA shall also use the K factor (correction factor) value of 0.85

<sup>3</sup> DOE notes that the CFR section UL cited in its petition addresses the requirements for determining the efficiency of electric motors. § 431.17(a) addresses general requirements applicable to all electric motors, and § 431.17(b) specifies sampling requirements applicable when a certification program is not used.