

## § 431.171

[69 FR 61983, Oct. 21, 2004; 69 FR 63574, Nov. 2, 2004]

### Subparts H–I [Reserved]

### Subpart J—Provisions for Commercial HVAC & Water Heating Products

SOURCE: 69 FR 61941, Oct. 21, 2004, unless otherwise noted.

#### § 431.171 Purpose and scope. [Reserved]

#### § 431.172 Definitions.

The following definitions apply for purposes of subparts D through G and J through M of this part. Other terms in these subparts shall be as defined elsewhere in this Part and, if not defined in this part, shall have the meaning set forth in Section 340 of the Act.

*Basic model* means, with respect to a commercial HVAC & WH product, all units of such product, manufactured by one manufacturer, which have the same primary energy source and which do not have any differing electrical, physical, or functional characteristics that affect energy consumption.

*Commercial HVAC & WH product* means any small or large commercial package air-conditioning and heating equipment, packaged terminal air conditioner, packaged terminal heat pump, commercial packaged boiler, hot water supply boiler, commercial warm air furnace, instantaneous water heater, storage water heater, or unfired hot water storage tank.

*Flue loss* means the sum of the sensible heat and latent heat above room temperature of the flue gases leaving the appliance.

*Industrial equipment* means an article of equipment, regardless of whether it is in fact distributed in commerce for industrial or commercial use, of a type which:

- (1) In operation consumes, or is designed to consume energy;
- (2) To any significant extent, is distributed in commerce for industrial or commercial use; and
- (3) Is not a “covered product” as defined in Section 321(2) of EPCA, 42

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U.S.C. 6291(2), other than a component of a covered product with respect to which there is in effect a determination under Section 341(c) of EPCA, 42 U.S.C. 6312(c).

*Private labeler* means, with respect to a commercial HVAC & WH product, an owner of a brand or trade mark on the label of a product which bears a private label. A commercial HVAC & WH product bears a private label if :

- (1) Such product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of such product;
- (2) The person with whose brand or trademark such product (or container) is labeled has authorized or caused such product to be so labeled; and
- (3) The brand or trademark of a manufacturer of such product does not appear on such label.

### Subpart K—Enforcement

SOURCE: 69 FR 61941, Oct. 21, 2004, unless otherwise noted.

#### § 431.190 Purpose and scope.

This subpart describes violations of EPCA’s energy conservation requirements, specific procedures we will follow in pursuing alleged non-compliance of an electric motor with an applicable energy conservation standard or labeling requirement, and general procedures for enforcement action, largely drawn directly from EPCA, that apply to both electric motors and commercial HVAC & WH products.

#### § 431.191 Prohibited acts.

(a) Each of the following is a prohibited act under sections 332 and 345 of the Act:

- (1) Distribution in commerce by a manufacturer or private labeler of any “new covered equipment” which is not labeled in accordance with an applicable labeling rule prescribed in accordance with Section 344 of the Act, and in this part;