



Consumer Electronics Association
1919 South Eads Street
Arlington, VA
22202 USA
(866) 858-1555 toll free
(703) 907-7600 main
(703) 907-7601 fax
www.CE.org

Via e-mail

mou@energystar.gov
berringer.bryan@epa.gov

January 19, 2010

Mr. Bryan Berringer
ENERGY STAR Program
U.S. Environmental Protection Agency
Washington, DC 20460

Subject: **2009 EPA-DOE Memorandum of Understanding (MOU)**

Dear Mr. Berringer:

On behalf of the Consumer Electronics Association (CEA), below are comments on the 2009 EPA-DOE Memorandum of Understanding (MOU) and related issues. This is a follow up to the agencies' request for comments on the Enhanced Program Plan (EPP) for ENERGY STAR Products, dated December 2, 2009, as well as the stakeholder meeting jointly hosted by DOE and EPA on November 6, 2009, in which CEA representatives participated.

Enhanced product verification, testing, and enforcement

DOE and EPA propose to pursue a requirement that testing for both qualification and verification take place in laboratories that are accredited. However, a blanket requirement that products in all categories be tested in accredited laboratories ignores the intense time-to-market pressures and short product lifecycles in the consumer electronics marketplace. Such a requirement necessarily would increase costs and delay time-to-market in the consumer electronics industry.

DOE and EPA acknowledge that the ENERGY STAR products program has grown to encompass products in more than 60 categories, many dramatically different from one another (e.g. air conditioners and computers, furnaces and televisions, etc.). CEA urges the agencies to recognize these differences and avoid imposing one-size-fits-all requirements regarding product testing. The consumer electronics industry's existing system of self-certification has been successful, not only in the context of ENERGY STAR, but also in other federal regulatory programs. With regard to ENERGY STAR and consumer electronics, CEA urges the agencies not to impose a blanket requirement for the use of accredited labs and instead maintain the existing system of self-certification. Without evidence of significant issues with ENERGY STAR qualification testing in the consumer electronics sector, the laboratory accreditation requirement appears unnecessary and arbitrary.

Top-tier program (Super Star)

DOE and EPA continue to present the proposal for an ENERGY STAR “Super Star” top-tier program as a foregone conclusion despite concerns and alternatives voiced by stakeholders and members of Congress.

As CEA explained at the DOE/EPA-hosted meeting on November 6, 2009, rather than first studying the idea of a “Super Star” or other segmented program within ENERGY STAR and then reporting back to Congress (which is what had been suggested in pending federal legislation), the agencies apparently have decided to move forward with such a program, as indicated by language in the MOU, regardless of stakeholder input.

We note that EPA Assistant Administrator Gina McCarthy stated at the November 6th meeting that despite the language in the MOU, no decisions have been made concerning whether or not to move forward with a top-tier program. Nonetheless, the EPP reiterates the language from the MOU that implies that such a program will happen regardless of stakeholder input.

There are valid questions regarding the impact of a top-tier program on the basic “Energy Star” brand and its implementation in the marketplace. A study would presumably explore these issues in greater detail. A study also might allow for exploration of other ideas, such as simply changing the traditional top-quartile approach of the existing ENERGY STAR program. However, the agencies’ apparent prejudgment that a top-tier program within ENERGY STAR makes sense continues to raise concerns among industry stakeholders.

In general, CEA believes the agencies’ programmatic focus should be on improvement of the existing ENERGY STAR brand, including potential expansion to new products and services.

Updates to ENERGY STAR specifications and EPA’s proposal for overall limits

The MOU states, “For product categories with large variations in product size (with impacts on energy use), overall limits for energy use may be incorporated into ENERGY STAR specifications.” This would be a major and unwelcome change to the ENERGY STAR program.

The ENERGY STAR program has always set specifications focused on efficiency that are scalable, giving models across the board, no matter size and performance, something to shoot for –and giving consumers an ENERGY STAR option across the board as well, no matter product size and performance. With this program change proposed by the agencies, ENERGY STAR would be abandoning its focus on energy efficiency at a time when it is more important than ever. Having the program become a subjective judgment on power

Mr. Bryan Berringer
January 19, 2010
Page 3

consumption (i.e. what uses “too much” energy) means ENERGY STAR would become focused on the smaller, less-featured, less-capable products over time. Under this approach, if less energy use is better, then no energy use must be best.

Other concerns and issues regarding ENERGY STAR

On the general topic of ENERGY STAR administration and program changes, CEA would suggest the following be considered and incorporated into the Enhanced Program Plan:

- *Ensuring that every stakeholder comment submitted during an ENERGY STAR specification development process is addressed with a detailed response by the relevant agency.* To encourage and strengthen stakeholder involvement, the agencies should ensure that they provide a detailed response to all stakeholder comments during a specification development or revision process.
- *Advocates hired as consultants.* To maintain ENERGY STAR program independence and integrity, the agencies should ensure that advocacy groups are not hired as consultants, either directly by EPA or as subcontractors to EPA’s consultants, on specification development and revision projects.
- *Guidelines for product testing.* The agencies should establish clear guidelines for third-party consultants hired by the agencies to verify ENERGY STAR compliance in the marketplace. Such guidelines should specifically address the handling of purchased products following testing and specifically avoid situations where tested products are returned to retailers, which increases product return costs for the industry.
- *Test procedures.* The agencies should ensure that test procedures recognized in or adopted as part of ENERGY STAR specifications are based on standards from accredited, consensus-based industry standards development organizations.

On behalf of CEA, thank you for the opportunity to provide comments and suggestions, and please do not hesitate to contact us with any questions or requests for additional information.

Sincerely,



Douglas Johnson
Senior Director, Technology Policy & International Affairs
djohnson@ce.org