NATURAL RESOURCES DEFENSE COUNCIL

NRDC Comments on Enhanced Program Plan for ENERGY STAR Products

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On behalf of the Natural Resources Defense Council (NRDC) and its more than 1.3 million members and e-activists we submit these comments on the Enhanced Program Plan for ENERGY STAR Products. NRDC has been a long standing supporter of the ENERGY STAR program and an active participant in the specification setting process at both EPA and DOE. Overall NRDC is very supportive of the direction ENERGY STAR is taking to increase the effectiveness of its program and the development of the National Building Rating Program.

I. On Energy Star appliances

Keep Energy Star levels fresh and relevant by considering future market share and version communication

NRDC supports Energy Star's plans to more frequently revise its specifications. The general goal of revising the specifications for products at a minimum of once every three years or once the market share for Energy Star products reaches about 35% makes sense. Given the increased interest by retailers and institutional purchasers to buy models that meet Energy Star, we think it is critical for Energy Star to include in its specification process some modeling to allow for rapid adoption of Energy Star by manufacturers. Rather than simply look at existing data and establishing a specification at the top 25%, Energy Star should consider for some product categories setting a specification that represents a lower qualification rate with the expectation that 25% or more of the models will meet it when the specification is effective or shortly thereafter. Failure to incorporate this logic into the determination of levels will likely result in triggering required revisions too frequently due to the 35% market share requirement.

As Energy Star moves to more frequent program updates and for occasions when they publish two sets of specifications at the same time, the need for some sort of "freshness dating" becomes necessary. As an example, for TVs the Energy Star specification in effect is currently Version 3.0 and during its revision process EPA appropriately established two new tiers called Version 4.0 and 5.0. To avoid consumer confusion and to also aid retailers, we encourage Energy Star to include a mechanism to help

determine what version of Energy Star the model achieves. At a minimum the Energy Star logo on the box should include in smaller print – meets Version 3.0. For the manufacturer who not only meets Energy Star 3.0 but also meets Energy Star 4.0, they should be allowed to say meets Versions 3.0 and 4.0. The details of such a system can be worked out via stakeholder discussions facilitated by Energy Star. We think this can be done in a way that protects the brand appearance and integrity.

Support thorough verification testing

NRDC has served as the Board Chair of PEARL, the highly successful off the shelf testing program of Energy Star labeled compact fluorescent lamps (CFLs). Over the nine cycles of testing that were done during a six year time frame, we observed dozens of models that were certified as meeting Energy Star's requirements but failed to meet one or more of the key performance requirements contained in the Energy Star specification. In other words, several of the tested models did not perform as promised. Product quality and compliance rates increased over time in large part we believe due to the PEARL testing and the number of products that were delisted by DOE. As eligibility for utility rebates is frequently tied to a product being Energy Star qualified, manufacturers began to pay much closer attention to product quality in fear of being delisted and losing access to utility incentive funds.

To ensure a successful and transparent testing program, we offer the following recommendations:

1. *Energy Star should develop and implement written testing and enforcement procedures for qualified products.* These documents should include: sample nomination and procurement processes, lab requirements, sample sizes, parameters to test, data distribution, and follow-up to be taken from the data.

2. *Create a clear delisting protocol* to ensure that everyone knows the rules in advance and that all companies are treated fairly.

3. *All test data should be publicly available*. There is nothing confidential about the power use of an Energy Star labeled product.

4. *Energy Star should proactively share the data* with other agencies including the Federal Trade Commission (FTC) and the enforcement division within DOE. For example, while a product might indeed meet Energy Star levels, the manufacturer might be providing incorrect information on the yellow Energy Guide label on that product. In the event a product fails to meet the Energy Star requirements, it is possible the product may also be out of compliance with the mandatory minimum efficiency standards set and enforced by the Department of Energy (DOE).

5. *Energy Star must independently select and purchase the units for testing*. Manufacturers must not be allowed to submit the units for testing, as these will be pre-

selected to qualify and will not be representative of the product the consumer purchases. Off the shelf is necessary in all cases.

4. *All verification testing shall be done at independently owned laboratories* except when uniquely justified. The PEARL testing experience has shown that in several cases manufacturers used their own "certified" laboratories to do the initial product testing for initial qualification while the off the shelf product testing done by independent laboratories yielded dramatically different results. While this will slightly increase the manufacturer's testing costs, the benefits from independent testing are overwhelming.

Energy Star should establish a top tier and consider categorical labels.

We strongly support Energy Star's intention to establish a new mark to identify the most efficient models. This need has become more apparent as the spread in energy use and operating costs among some Energy Star product categories has grown dramatically. For example, it is not uncommon for two Energy Star qualified TVs of the same size to differ in their energy use by a factor of two or more. Under the current scheme, the consumer has no way of distinguishing between the good and the very best.

In developing the guidelines for this new program, we encourage Energy Star to allow establishment of a "reach" specification for certain products when justified. In some cases, dramatic energy savings could be achieved through the introduction of models that are currently not available in the US market. The new specification and benefits that would be achieved by having qualified models will likely serve as a motivator to bring these super efficient models to the market.

Consider a top tier even when there is no justification for traditional Energy Star.

In some appliances, a transformational technology may be in development or produced in niche markets with huge potential energy saving benefits from commercialization. Traditional designs may have stalled. In these cases, there is a need for a top tier distinction for the best technologies, but the assessment of a traditional Energy Star may actually slow the growth of the more efficient products' market share by driving sales to less efficient, older designs. Water heaters, where traditional product designs are far less efficient than advanced condensing, heat pump, or solar designs, are a good example. Stove tops may also be similarly considered.

Do not neglect revising existing test procedures

Both agencies should take care to make sure that the development of new test procedures for Energy Star does not take valuable staff attention away from revising crucially important and woefully out of date test procedures for older products. These test procedure issues can handicap not just Energy Star, but also the energy savings attained by the standards set by DOE.

II. On the National Building Rating Program

Provide more information and opportunity to comment on the program

The Enhancements document did not provide much information on the National Building Rating Program. It would be very worthwhile for DOE to have a stakeholder meeting and provide more information on the direction of the program and tools, as well as an opportunity for written comments.

Look at the precedent in the area of rating buildings

The work done by outside organizations will be critical to the success of this program. RESNET maintains a wealth of institutional knowledge on the subject for homes, and the recently developed COMNET guidelines have provided DOE with critical help in forward on commercial buildings. The drafters and supporters of the federal legislation covering rating and labeling should also be included.

We support the consideration and inclusion of both asset and operational components in a building energy rating

Both the asset rating of the building and the operational rating of a building are critical pieces of information for consumers and policy makers. By fully leveraging the strengths and weaknesses of both, DOE can make sure that the outcome of the program is usable for a broad range of policies and drives behavioral changes.

We thank you for the opportunity to comment and for the continued improvement to the Energy Star program.