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Subject: Comments on proposed changes to ENERGY STAR product qualification and verification and EPA's related conference calls

Below are the comments of the Consumer Electronics Association (CEA) regarding the U.S. Environmental Protection Agency's proposed changes to ENERGY STAR product qualification and verification and the issues discussed in EPA's related conference calls in late March and early April.

The consumer electronics industry has long supported the ENERGY STAR program as the most effective and proactive means to encourage consumers to make more energy-conscious choices. The ENERGY STAR program has been embraced by manufacturers and consumers, and home electronics were responsible for 59 percent of the energy savings achieved by the program for residential products in 2008, according to the EPA's most recent annual report. CEA strongly supports reasonable efforts to ensure credibility and accuracy for the ENERGY STAR program.

I. Given the excellent track record of ENERGY STAR conformance exhibited by the consumer electronics industry, CEA urges EPA to avoid imposing new and unnecessary qualification burdens, such as external third-party testing or testing by accredited in-house labs.

EPA has proposed a new requirement that all products tested for ENERGY STAR qualification be tested by third parties. EPA also has agreed that in certain cases, testing by accredited in-house laboratories may be allowed. EPA is considering adding these controls to the ENERGY STAR qualification process and also requiring that qualifying product information be submitted to the government before the product can be qualified as ENERGY STAR. Such a change of requiring either the use of accredited in-house labs or external third party labs represents new costs and burdens for many consumer electronics manufacturers which are not justified based on the excellent track record for ENERGY STAR conformance exhibited by the consumer electronics sector.

In its own recent press release, EPA notes that ENERGY STAR electronics tested by the agency as part of its verification program had a 100 percent compliance rate.¹ EPA's proposal for testing by external third-party laboratories ignores this marketplace success as well as industry's underlying system of self-certification. In the consumer electronics

¹ [EPA News Release](#) on March 19, 2010: "EPA, DOE Announce New Steps to Strengthen Energy Star"

industry, there are intense time-to-market pressures and relatively short product lifecycles. A blanket requirement for qualification testing by either in-house accredited labs or external third-party labs could both increase product development costs and delay time-to-market for many electronics products. It also could severely discourage participation in the ENERGY STAR program.

EPA acknowledges that the ENERGY STAR 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 EPA to recognize these differences and consider alternatives to a one-size-fits-all approach to product qualification 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 related to product safety, electromagnetic compatibility and telecommunications.

With regard to ENERGY STAR and consumer electronics, CEA urges EPA to consider maintaining the recent improvements to the ENERGY STAR product registration system, which enhance self-certification by requiring submission of laboratory testing reports. These recent improvements to product registration, combined with an enhanced ENERGY STAR marketplace verification program, will produce sufficient controls and safeguards to address the concerns that have been raised regarding the ENERGY STAR qualification and verification system. Taken together, these program changes and enhancements will maintain and promote the ENERGY STAR program's integrity.

Absent evidence of significant issues with ENERGY STAR qualification testing – particularly in the consumer electronics sector, a new EPA requirement that testing be done by accredited in-house labs or external third-party labs is unnecessary and unjustified. Moreover, the U.S. Department of Energy, with its mandatory energy efficiency requirements for external power supplies, does not require testing by accredited labs.²

II. A requirement for testing by in-house accredited labs, if pursued, must be tailored appropriately for the ENERGY STAR product categories in question.

The ENERGY STAR program covers a wide range of product categories, even within the electronics sector. Some ENERGY STAR specifications, such as the specification for telephony products, involve relatively simple test procedures. For any ENERGY STAR specification where the test procedure is relatively simple, it would be an unnecessary and costly burden for a manufacturer of such a product to pursue testing by an accredited lab – even if that lab is an in-house lab. In another example, that of service provider-provisioned set-top boxes, test procedures require service provider-specific head-end functionality that would be expensive to duplicate in accredited labs.

² This was noted in the U.S. Department of Energy's responses to questions from industry regarding compliance requirements for external power supplies, dated April 5, 2010.

In this sense, one size does not fit all, and we urge EPA to consider tailoring the application of an accredited lab testing requirement if the agency moves in this direction. EPA also could consider the complexity of the product and the typical size of the ENERGY STAR partner (given that larger companies are more likely to have in-house labs that are already accredited).

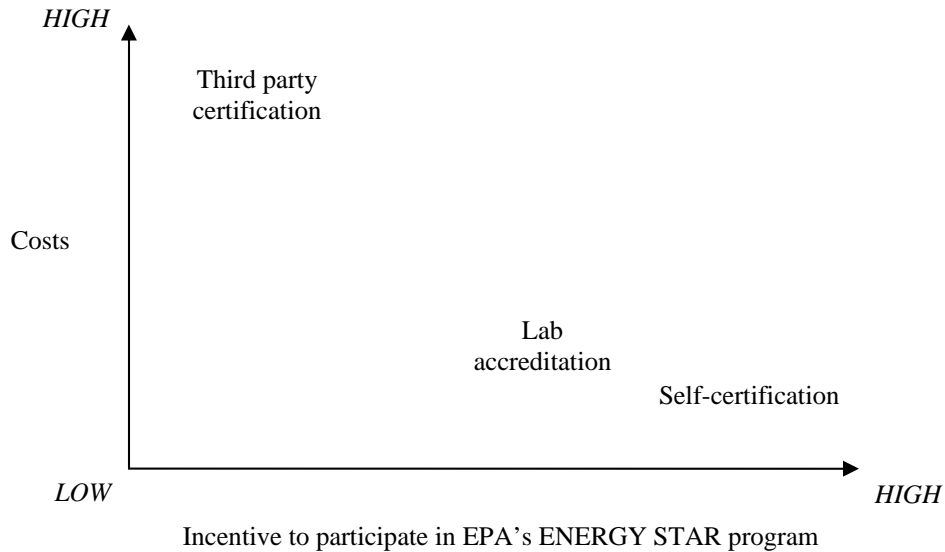
Additionally, if testing by accredited labs is pursued to any extent, CEA urges EPA to ensure that the accreditation requirements are as limited as necessary to ensure reliable data. Specifically, the requirements should be limited to verifying that the lab personnel are qualified, the lab equipment is calibrated, and the test facilities are adequate. It is not necessary to require labs to meet the requirements of standards such as ISO 9001 and/or ISO/IEC 17025 to perform relatively simple energy-related measurements.

CEA also urges EPA to consider phasing in any requirements for qualification testing by accredited labs to allow adequate time for certification programs to be developed and lab accreditation to occur.

III. Third-party certification for ENERGY STAR qualification is not a viable option for consumer electronics and should not be considered.

Consumer electronics face intense market pressures and short time-to-market requirements. Although third-party certification may be appropriate for certain product categories or industries covered by the ENERGY STAR program, third party certification is not appropriate for electronics due to their unique market constraints. An ENERGY STAR program requirement for manufacturers participating in the program to submit consumer electronics products to third party testing laboratories would impose significant delays and raise costs for both small and large manufacturers, harming producers' ability to innovate and compete in the marketplace. Moreover, a requirement for third party qualification testing would be a powerful disincentive for participation in the ENERGY STAR program at a time when the public and private sectors are focused on creating greater incentives for energy efficiency and the ENERGY STAR program.

Certainly no one wishes ENERGY STAR to be a disadvantage to participants in a competitive market. In general, we recognize a trade-off between ENERGY STAR program participation and the costs and burdens of participation, and the chart below illustrates the relative burdens of various approaches in the context of program participation.



While we understand EPA is not considering a third party certification requirement across the ENERGY STAR program, CEA would like to reiterate and reinforce our industry's significant objections to a third party certification regime for electronics covered by the program. In our view, there is an enormous difference between third party certification and either the present ENERGY STAR qualification system or alternatives related to in-house testing by accredited laboratories.

IV. Verification testing and other issues.

On the topic of qualification and verification testing, CEA would like to reiterate two points made in its comments to EPA on January 19, 2010, regarding the 2009 EPA-DOE Memorandum of Understanding.

First, EPA 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.

Second, EPA should establish clear guidelines for third-party firms hired by the agency to verify ENERGY STAR compliance in the marketplace. Such guidelines should specifically address how products will be obtained, handled and disposed, including the avoidance of situations where tested products are returned to retailers, which increases product return costs.

In addition, regarding EPA's proposed approach for verification testing, CEA requests that EPA consider and include appropriate cost controls for the manufacturer. Based on the

outline of EPA's current proposal, there does not appear to be any limit on the costs involved in verification testing that would be borne by the manufacturer.

On another note, EPA is proposing its new requirement for testing by external third party laboratories without the ability to determine whether the recent changes to EPA's online product submittal (OPS) system have operated to provide stronger qualification controls and resulting enhancements. Specifically, if qualification testing is to be conducted by an external third party laboratory, then manufacturers should not have to wait for EPA's product approval following submission of lab reports via the OPS system, since such reports would be coming from labs already recognized as accredited and qualified. In other words, for the proposed additional burden of lab accreditation, there does not appear to be a benefit in the product registration process.

In conclusion, CEA urges EPA, as it considers changes to ENERGY STAR qualification and verification processes and procedures, to work closely with industry stakeholders on which the marketplace success of the ENERGY STAR program ultimately depends. In particular, our industry is concerned about the current lack of detail in the EPA's "Enhanced Verification and Testing Program" plans shortly before EPA's May 2010 target for a "final" draft of proposed changes to the program.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas Johnson", with a long horizontal flourish extending to the right.

Douglas Johnson
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