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April 29, 2010

Ms Kathleen Vokes (vokes.kathleen@epa.gov)
EPA Energy Star Program
Washington, DC

RE: April 1, 2010 Presentation Titled: EPA Energy Star Enhanced Testing & Verification Commercial Foodservice Equipment

Dear Ms. Vokes:

Our company is a small testing, research and development laboratory that has been in business for over 40 years in the highly specialized field of gas burning appliances. We are an independent organization and have been qualified in numerous instances as a disinterested 3^{d} party. We are also qualified by the Air Quality Management District of Southern California (SCAQMD) as a 3^{d} party testing organization for NOx emission from packaged gas appliances (water heaters, furnaces and boilers) and also for efficiency testing of gas products by the California Energy Commission.

I state all of the above because when we first read the proposed 3^{d} party test criteria it fit our business model and appeared to be a business prospect loaded with opportunity. Upon further reflection of the work load involved and the constant "time to market" issues our clients currently face, it is our opinion there should (must) be some "tempering" of this requirement for mandatory 3^{d} party testing and verification.

I would like to address two issues as noted below.

Mandatory 3^{d} Party Testing

Although detrimental to the prospective business model, we believe that the ENERGY STAR process should be a "mix" of in house testing by the manufacturer (if they can prove certain lab and testing qualifications) and 3^{d} party review on some periodic basis of some percentage of ENERGY STAR branded products. The reason for this suggestion is:

1. The vast number of unique, custom manufactured, low sales volume, very expensive and physically large products in some industries such as the commercial foodservice is so overwhelming that we foresee a complete collapse of the manufacturers to stand behind the ENERGY STAR concept if mandatory 3^{d} party requirements stay in place.

2. Since ENERGY STAR is voluntary, the result of mandatory 3^{d}arty testing at all phases may be that most products will revert back to published data in sales literature and the industry "shunning" the ENERGY STAR concept as too cumbersome, expensive and not useful to the end purchaser.

    - Or, only the large companies will be able to afford the testing expense thus leaving many deserving, innovative, small manufactures out of the race to sell products if ENERGY STAR branding becomes an important factor in the purchase of such equipment.

    - The commercial foodservice business is one of the last major industries wherein a small manufacturer can still survive and prosper with a small sales volume and small market share.

3. If the manufacturers shun ENERGY STAR branding and since the purchasers are commercial establishments, the lack of the ENERGY STAR brand may have little or no impact upon their purchasing decisions.

    - The chain restaurants already establish their own criteria which may exceed those covered in the ENERGY STAR brand designation.

    - Since commercial foodservice equipment is used to produce revenue for the restaurant, (unlike consumer products) energy savings are not the sole influencing factor and may actually be a smaller portion of the selection process.

The amount of work needed to test all products going to market in an area like commercial foodservice is excessive and manufacturers cannot afford to "wait around" for testing agencies and 3^{d} parties to perform tests. Most labs assign test schedules that may be anywhere from 2 weeks (current economic conditions) to 3 months (economic conditions 3 years ago). Time to Market is a critical factor in the highly competitive market place and delays while waiting for test openings at 3^{d} party labs will only force products to shun or delay the ENERGY STAR sticker.

"Accreditation" of Laboratories

We would also urge the commission to be cautious with the concept of "accredited" laboratories. Our company along with many other independent labs and manufacturers operate "in compliance with[1]" ISO 17025, but we are not "Accredited" to ISO 17025. The same is also true for a number of the Nationally Recognized Laboratories (NRLs) including many government run laboratories. Using the general guidelines of ISO 17025 as a backbone of what EPA's concept of an accredited lab would be is a reasonable approach but should not form the only means of accreditation per your rules.

[1] In the EPA Dec 2, 2008 discussion of Lab accreditation utilized the term or phrase "a facility that follows the general requirements …" and this terminology best describes the concept being used by many skilled and qualified labs.

At the current "State of the Art" in laboratory operations, to be "accredited" means that someone must do the "accrediting" and at this point in time it appears that to many parties it means that one of the ILAC signatories must be or should be the accrediting body.

Accreditation by one of the ILAC signatories has merit for calibration labs and labs that are testing components that are life safety related (bolts to hold the wing on an airplane, steel or cement used for a building or bridge) but for energy ratings it is excessive. Our company endures 3 audits a year by NRLs to verify we "operate in accordance with" ISO 17025 and meet every paragraph of 17025, but if every manufacturer had to endure this process, most likely they would pull out of the ENERGY STAR program and just post their own data and cause complete confusion for the end purchasre. Current energy ratings are not done by ISO 17025 "Accredited" labs and yet those rating by and large have been fairly reliable numbers.

ISO 17025 "Accreditation" is expensive and time consuming not only for the accreditation process itself but also for the ongoing maintenance of ones internal QA system. Because of the vast array of products involved, the "Accreditation" process would be extensive because (at least as of now) each product type a lab is accredited to test would need to be technically accredited for that product type. And for the testing labs, these accreditation costs are reoccurring whether one test one sample or a thousand samples.

The obvious question of how to verify one operates in accordance with ISO 17025 becomes an issue, but the EPA and the various trade organizations should be able to address the issue fairly without the requirement of full audits by one of the (only) 7 ILAC signatories in the U.S. We would strongly urge EPA to come up with additional approaches or definitions as to what constitutes an acceptable 3^{d} party laboratory rather than using the current concept of an "Accredited" laboratory.

Thank you for taking the time to read the above and we hope that a reasonable approach can be arrived at that is fair and equitable to all parties with a stake in this process as it moves forward.

Carl Suchovsky
President