



3933 US Route 11  
Cortland, NY 13045-9715

(607) 753-6711

Telephone: +1 (607) 753-6711  
Facsimile: +1 (607) 758 6637  
www.intertek.com

January 8, 2010

Mr. Bryan Berringer, Rm 933  
United States Environmental Protection Agency  
1310 L St NW  
Washington, DC 20005-4113

Re: Comments to Enhanced Program Plan for Energy Star Products 12/2/09

Dear Mr. Berringer,

Intertek appreciates the opportunity to participate in the stakeholder process and offer comments on the Enhanced Program Plan for ENERGY STAR Products dated December 2, 2009.

Intertek is a leading provider of quality and safety solutions serving a wide range of industries around the world. From auditing and inspection, to testing, quality assurance and certification, Intertek has the expertise, resources and global reach to support its customers through its network of more than 1,000 laboratories and offices and over 24,000 people in more than 100 countries around the world. Intertek currently participates as an accredited laboratory in a number of Energy Star Programs and supports the efforts of EPA and DOE to improve the credibility of current program.

Intertek offers the following comments and recommendations on the following:

#### **Section 5.4**

Intertek supports the use of standards and testing protocols developed by consensus standards developers.

#### **Section 6.2 and 6.3**

Intertek supports the requirements for qualification prior to labeling, laboratory accreditation and comprehensive verification testing. Issues of non-compliance can only be addressed by a comprehensive continuing verification or certification program. Historically this has been a weak point in a number of the energy Star programs and we look forward to working with the agencies to develop methods to support an improved process.

continued...





## **Section 6.4**

### **Qualification Prior to Labeling:**

Pre-qualification is vital to assuring that products that are placed on the market comply with the Energy Star requirements. Manufacturers should be encouraged to utilize approved third party certification programs to satisfy this requirement.

### **Laboratory Qualification:**

Intertek strongly supports the use of independent third party laboratories that have been accredited to ISO/IEC 17025 for qualification and verification testing. Additionally, many current certification programs can provide this service.

### **Comprehensive Verification Testing:**

Intertek supports the use of Third Party verification by accredited independent laboratories. We believe that products can also be tested for compliance through approved manufacturer funded verification programs providing the testing is performed in independent accredited laboratories. We believe that the EPA and the DOE do not need to establish third party certification bodies to conduct certification programs. There are currently many qualified certification bodies that can supply these services.

Intertek supports the idea of "off-the-shelf testing", but we are concerned about the proposal to test by the government. Does this mean testing in government laboratories? Currently there is significant capacity for this type of testing to be performed in private sector laboratories, and it would be in clear violation of OMB Circular A-76 and A-119 to use government laboratories to essentially compete with private sector accredited organizations that can perform these testing functions.

Intertek wishes to emphasize the importance of writing good specifications for the functions of third party verification testing and certification within the Energy Star program. If properly specified, testing and certification requirements will reinforce the credibility of Energy Star without being unnecessarily restrictive.

Unnecessary restrictions can have significant impact on manufacturers, by inappropriately limiting the qualified services, and at the same time causing unnecessary duplication of testing and related efforts. Both of these factors raise the cost of testing and certification to manufacturers. Intertek believes that it would therefore be counter-productive to limit independent laboratory and third party certification participation in the program, as is currently happening in some program areas.

There are many current programs in various agencies that could be used as a model for the Energy Star improvements such as OSHA's NRTL (Nationally Recognized Testing Laboratory Program) and the FCC's TCB (Telecommunications Certification Body Program). These programs rely on accreditation of laboratories and certification bodies. We believe it is important to insure that there are multiple accreditors that will be able to provide the necessary ISO/IEC 17025 accreditation for laboratories and ISO/IEC Guide 65 accreditation for certification bodies.

continued...



Additionally, Intertek believes it would be counter-productive to limit available sources for accrediting independent laboratories or third party certifiers. This could cause an unnecessary need for duplicative accreditation efforts for laboratories who already have achieved recognized ISO/IEC 17025 accreditation of their quality systems and specific test testing operations from a large group of qualified accreditation organizations, such as A2LA, NVLAP, and the Standards Council of Canada. Another “unintended consequence” could potentially be to force the unnecessary re-testing of products that have already been tested by an accredited laboratory.

Intertek is also concerned that some energy Star Programs unnecessarily limit private sector certification body participation. For example, current Energy Star fenestration criteria mandate the use of a single body, NFRC (National Fenestration Rating Council) for verifying product ratings. This organization was initially funded to write energy efficiency standards for the product category. Over time it established a certification program for verification of product compliance, a service that is clearly available from testing and certification organizations in the private sector, Energy Star currently only accepts verification testing data from this source directly, although independent laboratories generate this data. This places an additional cost burden on manufacturers, and further constitutes a discriminatory certification requirement for other qualified bodies. DOE’s intimate relationship with NFRC, and its acceptance solely of NFRC’s certification program protects NFRC from direct competition, have the appearance of conflict of interest. A similar case occurred during the initial establishment of the OSHA NRTL program, when only two laboratories/certification bodies were allowed to participate. This resulted in a landmark court case requiring OSHA to establish uniform criteria for accreditation of laboratories and certification bodies in the Nationally Recognized Testing Laboratory (NRTL) program. Currently there are 15 organizations that participate in this program in support of workplace safety requirements. We believe that a similarly robust, yet open system will be most beneficial to all parties in this arena.

Finally, Intertek is concerned that, despite the stated goal of comprehensive testing across all product categories, the lack of uniform verification testing options may allow certain products within some categories to still go unverified for several years.

Intertek appreciates the opportunity to offer comments, and looks forward to participating in the stakeholder process and contribute to helping the EPA and DOE to have confidence in the continuing compliance of the products receiving the Energy Star label.

Sincerely,

Richard John

Intertek