



April 21, 2010

Subject: Response to ES Proposed Verification Program

Dear Kathleen Vokes;

Below are the main points of concern regarding the proposal for an ES verification program as discussed in the April 1st meeting:

1) Follow – Up Testing – Currently it has been proposed that all the ES approved chargers would be required to be tested every 3 years. It is believed that this additional required testing could become very burdensome due to the anticipated cost associated in conducting third party testing. In addition there is a concern that the third part testing facilities would be overwhelmed with the testing that would be required by the manufacturers causing major delays in the ES approval process and possible interruption in the useage of the ES mark.

It is strongly urged that ES consider a spot checking effort when it comes to conducting follow-up evaluation on ES approved chargers. Spot check follow-up inspections have been used for years with NRTL approved testing houses and this technique has proven to be very successful in ensuring public safety. It is believed that this proven follow-up methodology would also work well to ensure that energy efficient products are properly represented with the use of the ES mark.

If after initial spot checking of a manufacturers product it has been determined to be in violation with the use of the ES mark then the follow-up inspection could be increased up 100% every three years. This additional financial burden and workload would then be properly placed on the violators until they have proven to ES to be able to correctly use the Energy Star mark at which time the Follow-up inspections could be reduced by ES.

It is recommended that in a 3 year period the follow-up sample testing should range between 10% – 20% of all a manufacturer's ES approved battery chargers.

2) Sample Acquisition for Follow-up Testing – It is recommended that the sample chargers be acquired from retail locations. If the samples can not be found at a retail location then the partner should be ask for assistance in locating a test sample. If the charger can not be found on the market within an 18 month time frame then it would be removed form the ES approval list. The 18 month year time frame would allow for new tool production runs to be made for use with the ES approved charger that may not be on the market during the original Follow-up sample acquisition period.

3) Program Administrator – Will the program administrator be allowed to approve the testing laboratories for qualification testing? If the answer to this questions is yes, than they should be able to approve a manufacturer's laboratory under a supervised manufacturing testing program that meets the ES requirements.

This is a very critical portion of the testing program for ES because with out the manufacturer's ability to conduct testing it is anticipated that the NRTL labs currently available will not have the resources to meet all of the testing demands required as a result of the new ES verification program. This will cause major delays in the effort to obtain the ES approvals in a timely manner which in turn will mean that many products will just have to go to market without the ES mark because the delay would effect the sell through of a product that would be targeted for special time of year sales such as Christmas, Mothers day, Fathers day, Fourth of July etc.

In addition it would be anticipated that there will be a substantial cost for the testing service based on past charges experienced with NRTL agencies. It is anticipated that initial approval testing costs would be in the area \$15,000 per charger/battery combination. These approval costs would be a major deterrent in obtaining the ES mark but could be avoided if manufacturers are allowed to test under a NRTL agency's supervised manufacturing testing program.

It is also important that if Energy Star permits the program administrator to approve the testing laboratory for qualification testing that the administrator will accept a laboratory's third party registration to ISO17025 for Energy Star testing of BCS from a qualified registrar. This would mean that the program administer must accept this registration in lieu of their own ISO 17025 investigation.

As a part of the verification program the partner should have an agreement with the program administer that will provide for the confidentiality of information. The program administer shall not be allowed to provide details of their client's design other than that required by the Energy Star specification. The information provided by the program administrator shall be the same as what is currently provided to Energy Star.

It would also be very important to the ES partners that the administer would not be permitted to:

- a) Require a partner to put additional markings on their product or literature indicating program administer identification.
- b) Require a partner to obtain other services, certification, or investigation beyond that required to fulfill the Energy Star specification.
- c) Require a partner to obtain Energy Star testing approval services from the program administrator when contracting for other services the program administer may offer.

4) Challenge Testing - There are concerns without strict guidelines that this option could lead to many abuses of the Energy Star verification program .This feature of the verification program should be eliminated as there are other avenues for manufacturers to control this, such as truth in advertising. If Energy Star sees many public complaints regarding the validity of a qualification, then they are free to investigate the responsible program administrator.

Thank you for your attention to the above stated concerns regarding the ES verification program. If you have any questions please do not hesitate to contact me.

Regards,

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