

EPA ENERGY STAR® Comments Matrix: Summary of Comments on the Draft Conditions and Criteria for Recognition of Certification Bodies for the ENERGY STAR Program Recognition

Index	Key issue	Comment	Response
1	CBs - Absolute number	In order to avoid negative effects of monopolies of CBs, we hope that for each Product Category no limitation on number of accepted CBs is foreseen.	EPA will not limit the number of CBs it recognizes.
2	CBs - Consistency	EPA should provide detail on how it plans to ensure consistency among CBs, particularly as it may relate to what may be differences in test values and test procedure interpretations among participating CBs.	In the coming months, EPA intends to revise the program requirements for every product category. As part of this effort, EPA will address any aspect of the test methods it feels may be interpreted in significantly different ways. EPA's goal is for there to be open lines of communication between the Agency and CBs, so if further guidance on test values or interpretations is needed among CBs in a given category, EPA will provide such guidance to ensure consistency.
3	CBs - Domicile	Commenter suggests EPA require accreditation to ISO/IEC 65 be granted by an EPA-approved, North American domiciled accreditation body.	EPA intends to allow accreditation to ISO/IEC Guide 65 only by an AB that is a signatory to the International Accreditation Forum (IAF) Multilateral Recognition Agreement (MLA) that covers accreditation of product certification bodies, operates in accordance with ISO/IEC 17011. However, because of the close working relationship EPA intends to have with CBs, the Agency will limit recognition of CBs to those that have a substantial North American presence.
4	CBs - Oversight of laboratories	ISO/IEC 17025 accreditation ensures that laboratory staff performing tests are qualified and trained to perform the tests on the lab's scope. Requiring the CB to verify this is an unnecessary duplication of effort.	It is EPA's intention that an EPA-recognized CB will take the steps it deems necessary to establish confidence in a laboratory from which the CB intends to accept data, but that those steps shall be reduced in the event that EPA has formally recognized the laboratory as currently meeting the "Conditions and Criteria for Recognition of Laboratories for the ENERGY STAR Program."
5	CBs - Review of data	EPA should require the CB to review submitted product data within a specified amount of time.	EPA appreciates ENERGY STAR partners' concerns regarding product development cycles, and understands that a CB's ability to review product data in a timely manner can affect these cycles, notably time-to-market. In determining whether to recognize a CB for participation in the ENERGY STAR program, EPA will evaluate the CB's product data review procedure, including the length of time in which the CB has committed to complete its data review, to ensure it meets the needs of ENERGY STAR partners.

6	CBs - Source of data	CBs should only accept energy performance ratings from their own accredited laboratories, and not certify data provided by other laboratories. The CB requirements document should be modified to note that CBs are not required to accommodate a request by a manufacturer to conduct verification testing at an in-house laboratory when it is inconsistent with the CB's program procedures.	EPA has included in its requirements documents pertaining to Accreditation Bodies, Laboratories, and Certification Bodies measures it believes will ensure the integrity of data originating in laboratories that meet these requirements, including laboratories that are not owned or operated by the CB. That said, EPA understands there are established certification programs that entail acceptance of data from only 3rd-party laboratories, and that such programs may best represent the interests of the participants in such certification programs. In other instances, acceptance of data from EPA-recognized 1st-party laboratories may be more appropriate. During the CB application process, EPA will consider the CB's approach to data acceptance with these points in mind to ensure the approach is aligned with the interests of the CB and its stakeholders.
7	Determining qualification	Product certification is concerned with whether or not a product meets a set of specifications or standards, not with gradations of how well it met them.	EPA agrees, and has stricken, "or exceeds," from the clause, "Determine qualification by assessing whether the product meets or exceeds the relevant product performance parameters described in the product-specific ENERGY STAR program requirements."
8	Dispute resolution	EPA should require the CB to have a dispute resolution process for occasions when a manufacturer does not agree with the assessment of the data.	ISO/IEC Guide 65 requires the CB accredited to it to maintain a dispute resolution process. Since the CB requirements document requires accreditation to Guide 65, EPA has determined that reiterating the need for such a process <u>would be unnecessarily redundant</u> .
9	International implementation	To avoid confusion amongst partners, EPA should maintain the current international mutual recognition as it does now until the enhanced new ENERGY STAR program is introduced in Japan.	Mutual Recognition can only exist if the two programs are implemented in a similar fashion. The U.S. ENERGY STAR program is shifting from a self-certification program to one requiring third-party certification. Japan determines the parameters for implementing the ENERGY STAR program to meet Japanese consumer needs. However, if Japan's program continued to be a self-certification program, mutual recognition would not be appropriate. Models sold in both markets will need to meet the enhanced requirements in place in the U.S.; whereas, models sold only in Japan will need to meet the Japanese program requirements.
10	Maintaining lab reports	EPA should specify the length of time test reports for certified products need to be maintained.	EPA agrees. The final draft document proposes that CBs maintain test reports for certified products for at least the longer of 5 years or the duration of certification.
11	Manufacturing controls	Consider removing all of item g) "Ensure each manufacturing facility has adequate controls in place..." under 1) General Requirements and Responsibilities. A Certification Body (CB) with an ISO/IEC 65 accreditation is qualified to administer certifications, not assess quality controls and manufacturing consistency.	EPA has removed that section of the document in light of its determination that its objective could be met through activities more typically associated with product certification, as described elsewhere in the CB requirements document.

12	Meetings	Commenter is concerned with the frequency and manner of the requirement to participate in meetings with EPA, and wishes to see a clearly defined scheme for these meetings that would allow the participation of all concerned parties at minimal cost and time expenditures.	EPA intends to include stakeholders in the meeting organization process. EPA does not foresee a need to hold frequent or regularly scheduled meetings with ABs or CBs; however, it does intend to schedule them as necessary.
13	Product labeling	EPA discusses labeling guidelines and CB review of labeling plans. It is suggested that EPA provide further clarity on this issue and also, if issuing guidelines, submit them for public comment. It will be important for any guidelines to harmonize requirements of ENERGY STAR, DOE and FTC, and be mindful of the scope of EPA's authority in terms of the label and how that interfaces with FTC's scope of authority.	EPA has removed the requirement that the CB ensure products will be labeled according to the relevant ENERGY STAR program requirements.
14	Qualification processing time	Certified products and data should be submitted by the ENERGY STAR Partner directly to the EPA.	EPA considers a fundamental aspect of data certification to include direct submission of that data to EPA by the body certifying it. Note, EPA envisions the purpose of the submission of this data to be the population of EPA's online qualified products list. EPA understands stakeholders' concern that EPA review of data submitted by CBs would further delay marketing the product(s) in question as ENERGY STAR qualified. On that note, EPA wishes to point out that its intention is for the CB to grant the stakeholder permission to market its product(s) as ENERGY STAR qualified upon the CB's certification of the relevant data, rather than later, upon EPA review of the data.
15	Qualification processing time	It is imperative the ENERGY STAR program continue to update the Qualified Product List no more than one week following the certification of a product with the EPA. Any timeframe longer than that would stifle innovation through slower product releases to the market, thereby damaging consumers, manufacturers and the ENERGY STAR program.	EPA intends to institute a qualification process that allows for a rapid turnaround from data submittal to listing without sacrificing the integrity of those listings.
16	Redundancy of requirements	Many of the verification requirements are present in the general requirements and responsibilities of CB's as well as in the requirements for laboratories and partners. It seems that compliance with ENERGY STAR program requirements needs to be proven a number of times before and during the economic lifecycle of the products.	EPA has striven to eliminate truly redundant measures from its enhanced testing and verification program, and would welcome stakeholder feedback describing such measures it has not yet removed.
17	Timeframe - Accreditation bodies able to accredit to ISO/IEC Guide 65	ENERGY STAR should adopt a transition approach for IAF Signatory status, as more than one U.S. AB is currently in process of attaining the signatory status.	EPA appreciates that there is limited capacity of ABs that provide accreditation to ISO/IEC Guide 65, and further that the process of gaining that accreditation for CBs can be lengthy. If there is a delay in the accreditation of CBs for certain product categories, EPA will work with CBs to ensure all requirements are in place as soon as possible.
18	Timeframe - Time to set up process	Commenter expresses a concern that it will take a longer amount of time to set up the processes described in the CB requirements document than allowed for by EPA's timeline (requiring participation in a third-party certification program for all products by December 30, 2010).	EPA appreciates that these broad program changes have been established on an ambitious timeline. However, having these enhancements in place by the end of the year is essential to the integrity of the ENERGY STAR program. If issues arise that cause delays in implementation for certain product categories, EPA will work to resolve them and ensure all requirements are in place as soon as possible.

19	Verification - Challenge testing	Challenge Testing is in place for many existing certification programs, however, for it to be effective all parties involved must be covered by a contractual arrangement with the CB. As it is possible for multiple CBs to be approved by EPA for the same product lines, there is a potential that challenges will be generated by manufacturers with products certified by different CBs. This would be exceedingly difficult to manage and likely impossible to recover compensation as noted in iii) (1). If the EPA wishes to include this requirement, we recommend that it be implemented and managed by the EPA to ensure integrity of the process. Also, challenge testing could potentially harm smaller organizations unable to afford the challenge testing that larger organizations could impose.	EPA intends to work closely with CBs seeking EPA recognition in order to ensure the challenge testing processes those CBs operate meet EPA's expectation that any ENERGY STAR qualified product may be challenged on an appropriate basis. Regarding cost to parties to a challenge, EPA would like to point out that it will consider unacceptable any challenge testing program that disproportionately distributes the challenge testing burden.
20	Verification - Correspondence of verification testing to qualification testing	Unlike many other ENERGY STAR products, the energy performance of roofing products may significantly change with age. How does the EPA intend to account for roofing product aging?	The purpose of verification testing is to ensure products meet the performance characteristics demonstrated and reported to EPA upon qualification. Therefore, EPA intends verification testing to resemble where appropriate the tests performed for the purpose of qualification.
21	Verification - Cost	Commenter believes EPA should take into account the scheme of SMTL/WMTL qualification testing, periodic audits, and witnessed test at a reasonable cost, and not ask partners to also pay for the verification tests to confirm whether the product features meet the applicable ENERGY STAR Program requirements using randomly selected base models from the list of ENERGY STAR qualified products.	The purpose of verification testing is to ensure that products meet the performance characteristics demonstrated and reported to EPA upon qualification. In light of that, EPA considers verification testing to serve the indispensable function of ensuring ongoing confidence with the ENERGY STAR mark.
22	Verification - Generalizability of requirements	In the proposal, EPA states that the "base model" for ENERGY STAR requirements in different product categories should be defined in the product requirements document. EPA should follow this approach in other aspects of this proposal relating to the products including: a. The process for selecting products for verification testing; b. The process for procuring products for verification testing; c. The process for defining testing requirements; d. Other product-specific requirements.	In drafting the CB requirements document, EPA's objective has been to fashion a protocol that would be general enough to be applied to all ENERGY STAR labeled products. This has entailed consideration of what factors would best be defined on a product-specific basis. The factors enumerated in the comment are amongst those EPA determined could be applied generally across all product categories.
23	Verification - Generalizability of requirements	In previous EPA proposal documents, there were mentions of unique sampling requirements for CE and IT products, namely off-the-shelf sampling 1-2 times per year for verification testing. Will this be a Verification requirement moving forward or will the Number of Products and the Selection Guides be consistent across all product categories?	EPA intends for the requirements enumerated in the Verification section of the CB requirements document to apply to all products except lighting products.
24	Verification - Models eligible for testing	Models new to the market should be excluded from verification testing for at least one year after initial certification. The tests for initial certification will have just been completed and affirmed by the Certification Body. Random selection for ongoing verification in the first year is counterproductive and the testing of products with existing certifications would be more beneficial to the end user.	EPA agrees, and has modified the document such that it no longer recommends that models new to the market be selected for verification testing.
25	Verification - Outsourcing testing to other CBs	An option should be given to "outsource" certain types of sampling to participating CBs. The reason for this is that some CBs are located in "Manufacturer"-markets and others are located in "Consumer"-markets. Thus we would like to propose that e.g. CB's within one region can arrange the sampling for "Product Verification Testing" for other CBs (e.g. outside of that region) as well.	EPA would find this kind of relationship acceptable if both CBs notified EPA of their intention and described in writing the responsibilities of each party.

26	Verification - Percentage of models to undergo testing annually	Regarding the verification of “at least 10% of all ENERGY STAR qualified base models per year,” this is too burdensome to manufacturers. Most food service equipment designs do not change as frequently as consumer products do. We have had products that were 17 years old without any modifications that affected energy use.	In setting the requirement at 10%, EPA feels it has struck an important balance between ensuring products continue to meet ENERGY STAR requirements as long as they are marketed as ENERGY STAR qualified, and partner burden. EPA has further attempted to reduce partner burden by allowing verification testing to occur in first-party laboratories under appropriate supervision (i.e. witness).
27	Verification - Procurement prioritization	The procurement prioritization seems to be very clear and appropriate to the scope of the program. However, what is not clear is the definition of “prohibitively expensive” within the notes for this requirement. A clear definition of what “prohibitively expensive” means to the ENERGY STAR Program should be included.	Note that determining when to use the off-the-line procurement option is left to the CB, provided the CB abides by EPA's guidance regarding prioritization. This includes determining what is prohibitively expensive. To ensure the CB's approach to procurement is appropriate, EPA will review the CB's procurement procedures upon application for EPA recognition, and at any future date should the CB's approach change.
28	Verification - Procurement source	The commenter recalls a previous idea that products acquired for testing would need to be found at retail locations located a specified distance apart from each other (i.e. 500 miles), and notes this idea is not included in this portion of the requirements.	Note that determining the source of products procured off-the-shelf is left to the CB. To ensure the CB's approach to procurement is appropriate, EPA will review the CB's procurement procedures upon application for EPA recognition, and at any future date should the CB's approach change.
29	Verification - Procurement source	EPA should include an option whereby the CB could order a product model through a manufacturer's fulfillment system. EPA would need to establish a system to make the required orders through the federal government procurement arm or some other “anonymous” purchaser to ensure that any purchases by the CB would be anonymous.	EPA considers the "ordering option" one form of off-the-shelf procurement.
30	Verification - Procurement source	Commenter believes procurement of test units will be difficult since the commenter has no knowledge of, nor control over, what a product distributor does with products after delivery. Another commenter expressed concern over the cost of procuring units from the open market, and transportation costs.	EPA allows for products to be procured through alternative channels should the preferred channel be unfeasible.
31	Verification - Product specification audit	The CB should not be concerned with the collection of complete design specifications.	EPA has abridged the product specification audit section such that it is now limited to conveying the requirement that the partner ensure its products are retested and recertified in the event of changes that could affect their ENERGY STAR qualification status.
32	W/SMTL Requirements - ISO/IEC 17025	When the certification body decides that one or more requirements of the ISO/IEC 17025 is not applicable, it should establish the rationale that no adverse impact on the competence, consistency and impartiality of the certification body's operation of the certification Energy STAR certification scheme has resulted.	EPA would consider the decision on the part of the CB to not apply one or more requirements of ISO/IEC 17025 unacceptable. Therefore, EPA anticipates no case where such a rationale would be provided.
33	W/SMTL Requirements - ISO/IEC 17025	Commenter appreciates EPA's proposed flexibility of allowing CBs to accept test data from laboratories that are not recognized directly by EPA, provided those laboratories participate in a CB's WMTL or SMTL program. Commenter notes the draft does not appear to clarify whether such a laboratory must also be accredited to ISO/IEC 17025.	Such a laboratory need not also be accredited to ISO/IEC 17025, as indicated by the absence of such a stipulation in Appendix A.

34	W/SMTL Requirements - ISO/IEC 17025	Pursuant to previous meetings and draft documents, it was evident that the EPA had concerns in regards to the impartiality of in house testing laboratories. While we fully believe that in-house laboratories should be able to fully participate in the ENERGY STAR program, we also believe that requiring accreditation to ISO/IEC 17025 will yield a higher level of confidence for in-house testing laboratories.	EPA believes the W/SMTL requirements described in Appendix A, when properly applied by an EPA-recognized CB, are robust enough to provide EPA with confidence in the resultant certified data. Relevant to ISO/IEC 17025, EPA would like to point out that Appendix A allows for the use of a W/SMTL only if the CB "Ensures through an on-site initial assessment and periodic auditing that the SMTL or WMTL is able to demonstrate its facilities are in compliance with all relevant requirements of ISO/IEC 17025 and the applicable test method(s), and that the laboratory personnel conducting the testing are properly trained and qualified." EPA further notes such a system is in place for product safety testing.
35	W/SMTL Requirements - Specificity	These requirements were drawn from the CB Scheme, and thus more focused on product safety. To ensure uniform application of SMTL it is important that the requirements for establishing confidence be better defined in this document, as they likely will differ between CBs. For example type-tests correlated between the manufacturer's laboratory & the CB initially and on a periodic basis (such as a 3-year cycle) would help to define this requirement.	EPA leaves the process of establishing confidence in laboratories to CBs, with the understanding that the CB is responsible for the data it certifies. It is EPA's intention that an EPA-recognized CB will take the steps it deems necessary to establish confidence in a laboratory from which the CB intends to accept data, but that those steps shall be reduced in the event that EPA has formally recognized the laboratory as currently meeting the "Conditions and Criteria for Recognition of Laboratories for the ENERGY STAR Program."
36	Withdrawal of CB accreditation - Notification	EPA should add a requirement that a certification body (CB) notify EPA and any affected customer (ENERGY STAR manufacturer) of any suspension or withdrawal of accreditation.	EPA has added this requirement.
37	Withdrawal of CB accreditation - Status of certified products	In the case that a Certification Body's accreditation status is lost, products that were certified prior to the change should not need to be recertified by another body. With this in mind, we recommend deleting the following text from section 5.b.i of the proposal: "... or as relevant, changes in the accreditation of the laboratory that performed the test(s) used for the purpose of certifying the product..."	In the event that a CB's accreditation status changes, EPA will make a determination as to the qualification status of the products the CB certified prior to the change in its status.