



June 25, 2010

Ann Bailey
ENERGY STAR Labeling Branch
United States Environmental Protection Agency

Re: Comments to Draft Certification and Verification Requirements

Dear Ms. Bailey,

Intertek appreciates the opportunity to participate in the stakeholder process and offer comments on the **Conditions and Criteria for Recognition of Certification Bodies for the ENERGY STAR Program**.

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 the current program. We believe this will help restore consumer confidence in the ENERGY STAR[®] brand. In doing so, Intertek believes that EPA and DOE must address those program elements which support energy efficiency claims made under the ENERGY STAR[®] program. This is critical to ensuring integrity of the ENERGY STAR[®] brand, and delivering the intended benefits of the ENERGY STAR[®] program to consumers, industry, EPA and DOE.

Intertek offers the following comments and recommendations:

1) General Requirements and Responsibilities

a) Maintain accreditation to ISO/IEC 65, "General requirements for bodies operating product certification systems," by an **EPA-approved, North American domiciled accreditation body that operates in accordance with ISO/IEC 17011 and is a** signatory to the International Accreditation Forum (IAF) Multilateral Recognition Agreement (MLA) that operates in accordance with ISO/IEC 17011. Noteworthy elements of ISO/IEC Guide 65 include requirements that the CB shall:

Comment: As there are currently no AB requirements specific to Certification Bodies, we believe this language should be included with the CB Document.

b) Review the test results of each product intended for ENERGY STAR qualification, ensuring that all data in these results originated with an EPA-recognized laboratory¹ **and is in compliance with the requirements of the CB's certification program.**

Comment: The CB will only accept data from laboratories with which it has established a legal relationship, therefore the EPA recognition only forms a portion the requirement for the CB to accept data.

Note: The listing of ENERGY STAR qualified products will be maintained by EPA. The CB **must** also provide a listing of products it certifies.

Comment: ISO Guide 65 clause 4.8.1(G), requires that the Certification Body shall have (and provide upon request) a directory of certified products and their suppliers.

f) Ensure that laboratories providing test data are recognized by EPA¹

Comment: We would recommend removal of the second portion of this requirement. ISO/IEC 17025 accreditation process 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 if a testing laboratory has been accredited to ISO/IEC 17025.

¹ EPA-recognized laboratories will include accredited **3rd party** laboratories that meet the "Conditions and Criteria for Recognition of Laboratories for the ENERGY STAR Program," or **1st party** laboratories that participate in the CB's supervised or witnessed manufacturers' testing laboratory program per the requirements described in Appendix A.

Comment: The use of the term "laboratories" is becoming confusing in these documents. It is important to establish the difference between 1st Party (manufacturers), 2nd Party (subcontractors/suppliers) and 3rd Party (independent) Laboratories to ensure the requirements for each are understood. To establish these references would also align with terms and definitions used in international standard ISO/IEC 170000 Conformity Assessment – Vocabulary and General Principles.

2) ENERGY STAR Qualification

a) Determination of qualification

- ii) - Ensure products will be labeled according to the relevant ENERGY STAR program requirements. The CB may meet this requirement by confirming receipt of ENERGY STAR partner attestation that its qualified product(s) will be labeled according to the specific and relevant ENERGY STAR program requirements.

Comment: EPA should provide guidance to CBs on whether simple partner attestation, such as a signed agreement, or actual product, packaging line art demonstrating how ENERGY STAR labels are being used. Such documentation may provide reference for Verification to ensure continued compliance of labeling practices.

3) ENERGY STAR Verification

a) Verification Testing

- i) Operate a verification testing procedure that fulfills the verification testing requirements enumerated as follows:
 - (1) - Ensure products meet all labeling and product performance parameters as described in the relevant ENERGY STAR program requirements.
 - (2) - Number of products:
 - (a) - Test at least 10% of all ENERGY STAR qualified base models² per year. In the event of significant product failures, models tested may increase in subsequent years. The minimum number of products tested may differ by product category.
 - (3) - Products shall be selected by the CB according to the following general guidelines:
 - (a) - For approximately 50% of models selected, base models shall be randomly selected from the list of ENERGY STAR qualified products; and,
 - (b) - The remaining models shall comprise models selected in consideration of the following factors:
 - (i) - Product classes from manufacturers for which previous base models failed verification testing;

- (ii) - Referrals from third parties such as competitors, consumers, consumer groups or regulatory agencies regarding the accuracy of ratings;
- (iii) - Models new to the market, particularly from brands or manufacturers which are new market entrants; and,
- (iv) - Models with high sales volumes.

Comment: 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?

c.) Challenge Testing

Comment: This requirement 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.

Appendix A: Requirements for the operation of a Supervised Manufacturers' Testing Laboratory (SMTL) or Witnessed Manufacturers' Testing Laboratory (WMTL) program

A CB may operate a testing program to accept test data from a **(1st party)** manufacturer's in-house lab that participates in an SMTL or a WMTL program only if the CB

Comment: The use of the term "laboratories" is becoming confusing in these documents. It is important to establish the difference between 1st Party (manufacturers), 2nd Party (subcontractors/suppliers) and 3rd Party (independent) Laboratories to ensure the requirements for each are understood. To establish these references would also align with terms and definitions used in international standard ISO/IEC 170000 Conformity Assessment – Vocabulary and General Principles.

3) Requirements specific to the operation of an SMTL program:

- a) Witnesses testing and all other elements that contribute to the establishment of confidence in the SMTL's quality processes, and in the design of the product(s) to be certified;
- b) As the CB gains experience with and confidence in the SMTL, supervision may gradually shift from witnessing tests to examining the quality process underpinning the design, production, and testing of the product(s) to be certified;

Comments: 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.

Thank you for the opportunity to offer comments. Intertek believes that the ENERGY STAR[®] program has a significant impact, not only on the market place but more significantly on the environment. The recent evidence of the public's lack of confidence in the quality and consistency of the program demands a dramatic shift in how the EPA and DOE must move forward to reverse this troubling development. Intertek looks forward to working with the EPA and DOE to support improvements to the very important ENERGY STAR[®] program.

Sincerely,

A handwritten signature in black ink, appearing to read "MParker", enclosed within a large, loopy circular flourish.

Mike Parker
Vice President
Global Marketing
Government & Association Affairs