

June 25, 2010

Ms. Ann Bailey, Chief  
ENERGY STAR Labeling Branch  
U.S. Environmental Protection Agency  
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**Re: Draft Certification and Verification Requirements**

As a long-time ENERGY STAR Partner across seven major product categories, Panasonic is pleased to offer comments regarding EPA's proposed Draft Conditions and Criteria for Recognition of Certification Bodies for the ENERGY STAR program. We support the need to clearly define requirements for operation of a supervised Manufacturer's Testing Laboratory ("SMTL") and Witnessed Manufacturer's Testing Laboratory ("WMTL").

Through the current "Condition and Criteria for Recognition of Certification Bodies" proposal and the criteria for laboratories announced on May 17, 2010, manufacturers will have a wider option of conducting product tests from four locations including laboratories, in-hour laboratories, SMTL, and WMTL. While we appreciate the expansion of available options, a number of revisions are needed for the proposal's provisions that apply to in-house laboratories.

Laboratory requirements for accreditation by the Federal Communications Commission specify the use of ISO-IEC 17025 laboratories that are accredited by ILAC and an Accreditation Body (AB), which is a member of the APLAC. There exist no requirements concerning "independence," that apply to in-house laboratories, as proposed by EPA.

Instead, independence is assured through requirements under ISO/IEC 17025 requirements. Laboratories adhering to ISO/IEC 17025 are accredited by the ILAC and an AB, which is also a member of the APLAC. The proposed requirements regarding independence of in-house laboratories is unnecessary and should be removed from the Conditions and Criteria proposal.

Specifically, Panasonic requests deletion of the following section:

In the case of "in-house" laboratories, this shall include evidence that:

- ☐ laboratory employee compensation or annual bonuses are not tied to the financial performance of the parent company;
- ☐ laboratory engineering personnel do not originate with or return to the parent company, or otherwise look to the parent company for career advancement;
- ☐ laboratory employees are required to participate and regularly pass third-party ethics and compliance audits conducted in accordance with the International Federation of Inspection Agencies (IFIA) Compliance Code or equivalent standards for ethics and compliance programs; and,
- ☐ mechanisms for reporting and responding to attempts to exert undue influence on the test results are in place. This shall include establishment of an external system for employees to make such reports

and follow-up on such claims, as well as regular education of staff as to what avenues are available to them should they identify attempts to influence test reports.

Note: EPA is proposing to supplement the ISO/IEC 17025 requirements associated with ensuring the independence of the in-house laboratory from the manufacturer. EPA's goal is to allow for in-house testing with sufficient controls to ensure such testing remains independent.

Many ENERGY STAR Partners currently have ISO 9001 accreditation and are operating an active quality management system to respond to market/customer demands through quality assurance of products and/or services. Moreover, verification testing is measured at an ISO/IEC 17025 accreditation laboratory. Thus, Panasonic believes the "improvement in reliability of the data measured by the producer for verification" as required by the EPA can be sufficiently met.

However, we can support an EPA decision that a transition to a new system can be more easily enabled by setting conditions based on ISO 9001 rather than build a new quality management system to conform to ISO/IEC 17025 requirements.

Panasonic further recommends the EPA revise its proposal on how Partners must establish a documented evaluation method that conforms to the requirements of the new process in terms of testing laboratory facilities, environmental control, personnel and training, types and accuracy of testing and the calibration method, written test methods, settings, measurement technology and documentation systems, quality assurance programs and other applicable elements required by ENERGY STAR.

Further, we recommend the verification process by a Certification Body (CB) allow for a one-year grace period after finalization of the process, and a six-month grace period to allow for the establishment of necessary CBs in countries where manufacturers have operations.

The current "Certification Requirements" proposal describes a process whereby certified products and data are to be submitted to the EPA from a CB. However, for the reasons specified below, we propose the report of certified products and data be submitted by the ENERGY STAR Partner to the EPA.

- (1) There is a high probability that verification will be delayed because of the tremendous amount of handling to be executed by the CB.
- (2) This process appears to suggest a CB's warranty against defects. Since only manufacturers can take responsibility of warranty against defects, we believe it is inappropriate for CB's to submit the report for certified products and data to the EPA.
- (3) The definitions of WMTL/SMTL are in accordance with the CB scheme for safety certification. In safety certification, the CB is to issue a certificate based on the test results by a WMTL/SMTL, and the voluntary mark such as the US ETL can be used by manufacturers for their products if they have a CB certification.

Additionally, we would like to confirm the following points regarding the present "Certification and Verification Requirements"

Partners who are to launch SMTL or WMTL despite the significant change of shifting the ENERGY STAR PROGRAM from self-certification to a third-party certification are the ones agreeing with and are willing to positively

support the EPA's actions to maintain reliability of the ENERGY STAR label for consumers.

Therefore we believe that EPA should take into account the scheme of SMTL/WMTL qualification testing, periodic audits, and witnessed test at a reasonable cost, and does 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.

Again, Panasonic supports efforts by the EPA to strengthen ENERGY STAR program safeguards that assure product performance that conforms to the ENERGY STAR criteria. However, absent the changes outlined in our comments above, we cannot support the current draft proposed Conditions and Criteria for Recognition of Certification Bodies.

Thank you for the opportunity to comment on this proposal. We welcome the opportunity to further clarify our comments, and to work collaboratively with EPA to develop a more effective program to provide for necessary product testing and verification.

Sincerely,

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Corporate Environmental Department