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May 28, 2010

Kathleen Vokes
ENERGY STAR Product Development
Environmental Protection Agency
1310 L Street, NW
Washington, DC 20005

Dear Ms. Vokes,

Re: AHAM Comments on ENERGY STAR's "Draft Conditions and Criteria for Recognition of Laboratories for the ENERGY STAR Program"

On behalf of the Association of Home Appliance Manufacturers (AHAM), I would like to provide our comments to the Environmental Protection Agency (EPA) ENERGY STAR Program on the proposal released May 17, 2010, titled "Draft Conditions and Criteria for Recognition of Laboratories for the ENERGY STAR Program".

AHAM represents manufacturers of major, portable and floor care home appliances, and suppliers to the industry. AHAM's more than 150 members employ tens of thousands of people in the U.S. and produce more than 95% of the household appliances shipped for sale within the U.S. The factory shipment value of these products is more than \$30 billion annually. The home appliance industry, through its products and innovation, is essential to U.S. consumer lifestyle, health, safety and convenience. Through its technology, employees and productivity, the industry contributes significantly to U.S. jobs and economic security. Home appliances also are a success story in terms of energy efficiency and environmental protection. New appliances often represent the most effective choice a consumer can make to reduce home energy use and costs.

AHAM supports a robust ENERGY STAR program. It is critical that that the public, government, retail and industry have confidence in the veracity of energy claims and qualification for ENERGY STAR status. We support confidence-enhancing actions but not expensive, burdensome requirements which will tax manufacturer and laboratory resources and slow the time to market, while providing minimal benefits. The GAO report raised some legitimate issues but it should not be a reason to overreact.

Our comments address the industry's concerns with EPA's specific proposal issued on May 17 and provide a specific proposal for how ENERGY STAR qualification of home appliances should proceed. We support requirements for third party and in-house laboratories but these

requirements should be realistic. We believe it is critical to the viability and success of your program that in-house testing remain a feasible option for certification purposes.

Product Qualification Requirements

In our previous comments, dated April 30, 2010, we expressed concern with ENERGY STAR's proposals regarding the potential mandatory, across the board, imposition of third party accredited labs for qualification of new products. In the May 17 proposal cover letter, ENERGY STAR states that it will be "requiring laboratories to adhere to specific requirements to test products for qualification under the ENERGY STAR program" (emphasis added). AHAM would like this clarified to ensure it means that the proposal put forward by EPA on May 17 addresses both third party laboratories and manufacturer (or in-house) labs.

Properly administered in-house laboratories in our industry are the equal in every regard to commercial, for-profit laboratories. The value and efficiencies such in-house testing can bring to the system under proper circumstances should be taken advantage of, with third party qualification testing mandated only where in-house testing is not available or proven. Finally, EPA should look at certification and verification holistically, recognizing that a strong verification program will balance less stringent certification requirements and visa-versa.

As noted in our previous comments, there are several reasons why it is not realistic to have all ENERGY STAR products qualified by third party labs. First, it is our understanding that there is currently not enough capacity in existing third party labs for qualification testing of all new products. For example, the largest refrigerator/freezer testing lab in North America has 10 stations for testing – they are able to test approximately 100 units per year. If manufacturers turn over roughly half of their products each year, about 150 models would need to be qualified – this is in addition to other ongoing testing for the Natural Resources Canada Energy Efficiency Verification Program and the upcoming AHAM program.

Second, to the extent capacity is available, there would be substantial added time for product qualification to occur through one of these labs, resulting in delayed distribution and launching of new products. If third party labs are required to qualify products, these labs will be put in the position of determining priority of qualification and verification testing, which is not an ideal situation for either the lab or manufacturers.

Third, there is substantial increased cost added to the product if third party qualification must occur for each new product. For example, testing of a refrigerator/freezer product is expected to cost approximately \$2200 for a single test. This adds up quickly if multiple products are tested each year – and many manufacturers may turn over half of their product offerings each year. These costs will eventually be passed on to the consumer and could conceivably negate the money a consumer may save by purchasing a product with improved energy efficiency. Many manufacturers have made substantial investments in testing laboratories to mitigate some of these qualification testing costs.

AHAM strongly suggests that ENERGY STAR consider using the Supervised Manufacturer Testing (SMT) facility paradigm utilized by Natural Resources Canada (NRCan) through the Standards Council of Canada (SCC). Under this model, manufacturer labs are certified by an accredited, third party lab. Certification requires an annual audit to ensure that the lab meets applicable clauses of ISO 17025, at least one test witnessed by an auditor from the accredited lab and round robin testing. This approach is defined by IEC/IECEE in their document titled “Use of Manufacturers’ Testing Laboratories: General Principles” (OD-CB2027-Ed. 2.2). Related documents, such as OD-CB2032, “Assessment of Manufacturers’ Testing Laboratories” and OD-CB2030, “Operation of SMT Procedure” provide substantial guidance on the operation of the use of manufacturers’ testing facilities by accredited third party laboratories.

In previous comments, we submitted an audit form utilized by CSA International for determining and continuing certification of manufacturer labs. Underwriters Laboratories (UL) has a similar program called the “Client Test Data Program”. Information on UL’s program is included in Appendix A.

The fact that lab accreditation organizations, such as SCC, accept SMT facilities as an extension of accredited third party labs and that IEC/IECEE has developed framework guidelines for the use of manufacturer labs, suggests that the use of manufacturer labs is a well-known and accepted procedure utilized internationally.

We believe that qualification testing using SMTs allows the greatest flexibility, provides for the fastest introduction of new products into the market, addresses accuracy questions of lab test results, and reduces testing and personnel costs, while providing documented oversight of the SMT labs. We believe the combination of SMT lab qualification with verification of a significant percentage of models each year, as proposed in the AHAM refrigerator/freezer program, provides a balanced, realistic and effective approach for ENERGY STAR’s enhanced testing program.

Accreditation of “In-House” Labs

AHAM agrees that an EPA-recognized third party laboratory must maintain accreditation to ISO/IEC 17025 by an EPA-recognized Accreditation Body (AB) .

As noted in our comments submitted in April, AHAM does not support the type of required accreditation for “in-house” or manufacturer labs that may be suitable for third party laboratories. First, in-house labs are generally much smaller than a for-profit third party lab and the paperwork and resources required to maintain accreditation is costly and may not be feasible. Second, these labs generally have oversight by an accredited, third party lab. For major household appliances, many of these labs are Supervised Manufacturer Test (SMT) facilities, as required through the Natural Resources Canada Energy Efficiency Verification (EEV)

program. As noted earlier, AHAM considers the SMT requirements and process to be effective and sufficient for qualification of products.

EPA's Proposal for "In-House" Labs to Demonstrate Additional "Independence"

AHAM does not support ENERGY STAR's proposal that "in-house" labs must meet purported "independence" requirements beyond the well directed requirements of ISO/IEC 17025 in order to be accepted as an EPA-recognized lab. We are unaware of any reason why the requirements set forth in a well-recognized international standard are not sufficient. We know of no evidence that in-house laboratory employees have been suborned into falsifying test results. Such fraudulent activity could occur in a third party laboratory as well.

The suggested methods of presenting documentation to successfully demonstrate "the impartiality and freedom of laboratory management and personnel from undue internal or external commercial, financial or other pressures and influences" seems arbitrary, vague, and completely lacking in direction as to how to achieve compliance with this requirement. For example, employee compensation is often determined based on a pool of funds available for salary increases. This pool of funds is more than likely dependent on the success of the manufacturer from the previous year. In such an instance, does the fact that the lab employee receives a salary increase violate the requirement that compensation not be tied to the financial performance of the parent company?

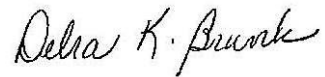
Additionally, the restriction that a lab employee cannot originate from or return to a parent company or otherwise look to the parent company for career advancement ignores the fact that there may be perfectly valid reasons for an employee to want to advance his or her career after spending some time in the testing lab. In fact, to prevent such an employee from seeking a position that is a career advancement will likely result in an inability of the company to fill positions within the test lab with the highest quality employees - what employee with any sense of self worth would accept a position that has no opportunity for career advancement and moreover, what employee that is already working in a test lab environment will likely stay in such a position if there is no chance to improve ones career. This is a restriction that will likely result in an opposite reaction than what is desired; in this instance this restriction will likely result in an inability for a company to staff its testing labs with qualified personnel.

In sum, AHAM submits that these additional independence requirements are unnecessary and so restrictive that no "in-house" labs would be able to participate in the ENERGY STAR program. AHAM suggests that ENERGY STAR remove any additional requirements for "in-house" labs and accept that ISO/IEC 17025 requirements are sufficient.

AHAM supports EPA in its efforts to provide incentives to manufacturers, retailers and consumers for continual energy efficiency improvement. AHAM understands the need to ensure public confidence in the ENERGY STAR program. We appreciate the opportunity to offer

these comments on EPA's ENERGY STAR's "Draft Lab Requirements" proposal and we look forward to working with EPA ENERGY STAR in its continued development of this Program.

Sincerely,

A handwritten signature in black ink that reads "Debra K. Brunk". The signature is written in a cursive, flowing style.

Debra K. Brunk, Ph.D.
Vice President, Technical Services

Appendix A

UL Client Test Data Program