

June 4, 2010

Ms. Katharine Kaplan
Energy Star Program
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, N.W.
Washington, DC 20460

Ms. Kathleen Vokes
Energy Star Program
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, N.W.
Washington, DC 20460

Sent via E-Mail: ENERGYSTARVerificationProgram@energystar.gov

Re: Comments to the Draft “Conditions and Criteria for Recognition of Laboratories for the ENERGY STAR® Program”

Dear Ms. Kaplan and Ms. Vokes:

I am writing with regard to the Draft “Conditions and Criteria for Recognition of Laboratories for the Energy Star Program,” which were issued on May 17th. Bose Corporation opposes any requirement that Energy Star partners use third party certification programs for product qualification. Third party certification is costly, burdensome and will delay product release and the competitiveness of Energy Star partners. Therefore, we respectfully request that EPA allow third party certification as a verification requirement for electronic products under the Energy Star program.

Bose Corporation is an engineering, manufacturing, and retail distributor of electronics and audio equipment with over 3,145 employees in operations in the following locations: Framingham, Stow, and Westborough, MA; Blythewood, SC; Yuma and Tolleson, AZ, and San Diego/Otay Mesa, CA. Bose Corporation is also a member of the Consumer Electronics Association, which may also be submitting comments on this same matter.

Bose Corporation understands that EPA must ensure that in-house laboratories operate independently in order to promote enhanced verification under the Energy Star program; however, Bose is very concerned that the proposed reporting requirements, outlined in the Draft Conditions and Criteria document, are so unreasonable, onerous and inconsistent with existing in-house laboratory requirements that they will effectively operate to remove the in-house laboratory option from the Energy Star program.

The Conditions and Criteria describe proposed conditions and criteria that would operate as prerequisites for laboratories that seek to serve as accredited laboratories for the Energy Star program. The Conditions and Criteria state, “[i]n order to serve as an

accredited laboratory for the Energy Star program, a laboratory shall agree in writing to comply at all times” with the proposed requirements set forth in the document. These requirements include general accreditation requirements, such as maintaining accreditation to ISO/IEC 17025; notifying EPA/DOE immediately of any attempt to hire or exert undue influence over test results; recording laboratory competence for carrying out test methods as outlined in the Energy Star program, and allowing EPA or an EPA-appointed representative to witness any testing performed for qualification or verification of qualification to the requirements of the Energy Star program.

The Conditions and Criteria also propose additional requirements, including inter-laboratory comparison testing and reporting. Reporting requirements would include submitting evidence of accreditation and documentation demonstrating the impartiality and freedom of laboratory management and personnel from any undue internal or external commercial, financial, or other pressures and influences that may adversely affect the quality of the work. Specifically, the Conditions and Criteria propose that, in the case of “in-house” laboratories, reporting requirements 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; and
- Mechanisms for reporting and responding to attempts to exert undue influence on the test results are in place.

EPA acknowledges that these requirements “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.”

Bose opposes any additional requirements that would supplement ISO/IEC 17025 laboratory accreditation, including the reporting proposals outlined above. ISO/IEC 17025 currently contains sufficient controls to ensure the independence of in-house laboratories and Bose opposes any proposals that would go beyond current ISO/IEC 17025 controls. These additional proposed requirements would have the effect of discouraging the in-house testing laboratory option because the proposed requirements are so unreasonable, onerous, and inconsistent with current in-house laboratory practices.

Stringent requirements already exist under the ISO/IEC 17025 standard. ISO/IEC 17025 is the main standard that specifies the general requirements used by testing laboratories to carry out testing and calibration. Most testing laboratories use ISO/IEC 17025 to implement a quality system aimed at improving their ability to consistently

produce valid results. Such requirements and controls are sufficient for safety and electromagnetic compatibility testing. They should also be sufficiently rigorous and valid for Energy Star accreditation.

Bose Corporation appreciates EPA's efforts to enhance and strengthen the credibility of the Energy Star label. We do not object to EPA's proposal to require Energy Star testing in accredited labs, as Bose's in-house laboratories are accredited. However, Bose Corporation opposes any requirements that would impose controls on in-house laboratories that do beyond existing ISO/IEC 17025 requirements.

Electronic products face intense market pressures and short time-to-market requirements. Although third party certification may be appropriate for certain products, third party certification is not appropriate for electronic products due to their unique market constraints. An Energy Star requirement that would necessitate that producers submit electronic products to third party testing laboratories would impose delay and increased costs on electronic producers, thereby, reducing producers' ability to innovate and compete in the marketplace. Bose urges EPA to ensure that an in-house testing option remains viable in the Energy Star program and also urges EPA to maintain consistency with ISO/IEC 17025 and not add additional reporting requirements.

Thank you for your consideration,

Sincerely,
BOSE CORPORATION

Mark E. Sullivan
General Counsel & Secretary