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BROTHER INTERNATIONAL CORPORATION

June 4, 2010

Sent via email to ENERGYSTARVerificationProgram@energystar.gov

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

Dear Ladies and Gentlemen:

I am writing on behalf of Yasumichi Kojima, General Manager of Environmental Management Department for Brother Industries, Ltd. (“Brother”), to provide comments on the Draft *Conditions and Criteria for Recognition of Laboratories for the Energy Star Program* (the “Conditions and Criteria”) that were issued on May 17th. Brother previously sent a comment letter to the Environmental Protection Agency dated April 30, 2010 in response to EPA’s proposed procedures for *Energy Star* qualification, as outlined in its *Energy Star Products Enhanced Testing and Verification* presentation dated March 26, 2010. These comments supplement Brother’s position set forth in the April 30th letter.

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; record lab’s competence for carrying out test methods as outlined in the *Energy Star* program, and allow 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, 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.”

Brother supports the use of “in-house” laboratories as accreditation bodies for the *Energy Star* program.

For the reasons stated in its comment letter dated April 30, 2010, Brother opposes any effort to require that information technology and consumer electronic products undergo third party qualification testing for *Energy Star* program eligibility. Brother supports the use of “in-house” laboratories for qualification testing under the *Energy Star* Program for the following reasons:

- (1) Allowing “in-house” testing for *Energy Star* qualification will help reduce the burden on manufacturers in meeting the new requirements under the Plan by helping to limit the cost of the new qualification requirements; and
- (2) Manufacturers would be better equipped to plan their product design cycle around an “in-house” testing process as opposed to using third parties for *Energy Star* qualification.

Brother opposes any additional requirements to 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 Brother 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.

While we do not believe it is necessary for “in-house” laboratories to be accredited pursuant to ISO/IEC 17025, if the EPA insists on requiring such accreditation, supplementing the ISO/IEC 17025 standard with additional reporting requirements will create an overly burdensome process for manufacturers. Stringent requirements already exist under such ISO



standard. ISO/IEC 17025 is the main standard that specifies the general requirements used by testing laboratories to carry out tests and/or calibrations. 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 testing. They should also be sufficiently rigorous and valid for *Energy Star* accreditation.

Thank you for the opportunity to submit these comments. Please contact either Dorian Allyn at doriana.allyn@brother.com, or (908)252-3342, or Frank Martin at frank.martin@brother.com, or (908) 252-3222, if you have questions or require additional information from Brother.

Respectfully submitted,

Henry J. Sacco, Jr.
Vice President and Chief Legal Officer
Brother International Corporation,
Wholly owned subsidiary of Brother Industries, Ltd.

cc: Yasumichi Kojima, Brother Industries, Ltd.
Doriana Allyn, Brother International Corporation
Frank Martin, Brother International Corporation