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VIA EMAIL

May 28, 2010

Kathleen Vokes
Environmental Protection Agency
1200 Pennsylvania Ave, NW (6202J)
Washington, DC 20460

ENERGYSTARVerificationProgram@energystar.gov

Re: Commentary on the Enhanced Testing and Verification Proposals

Dear Ms. Vokes:

Mitsubishi Digital Electronics America (“MDEA”) is proud to be a leader in the effort to minimize the impact of electronics and manufacturing on our environment, and is pleased to participate in many “green” initiatives, including the ENERGY STAR® program. We appreciate the opportunity to respond to the draft Conditions and Criteria for Recognition of Laboratories for the ENERGY STAR Program.¹

General Requirements

The Draft Criteria requires accreditation to ISO/IEC 17025 by an EPA-recognized Accreditation Body (“AB”).² MDEA agrees that accreditation to ISO/IEC 17025 should be required for both third-party and internal testing laboratories. As you know, this standard is the basis for laboratory accreditation world-wide. Furthermore, we agree that a laboratory performing ENERGY STAR testing should have the appropriate ENERGY STAR test procedures recorded in its Scope of Accreditation.

External Influences

The Draft Criteria also requires documentation “demonstrating the impartiality and freedom of laboratory ... personnel from any undue ... pressures and influences”.³

However, ISO/IEC 17025 already includes requirements to ensure that the laboratory is reasonably free of undue business influences.⁴ This standard requires that the laboratory have “arrangements to ensure ... free[dom] from any undue ... pressures and influences”.⁵

¹ Letter from Kathleen Vokes, US Environmental Protection Agency, ENERGY STAR, May 17, 2010; Environmental Protection Agency, *Draft Conditions and Criteria for Recognition of Laboratories for the ENERGY STAR program* (rel. May 17, 2010) (“Draft Criteria”).

² Draft Criteria at 1.

³ Draft Criteria at 2.

⁴ International Organization for Standardization, *General Requirements for the Competence of Testing and Calibration Laboratories*, ISO/IEC 17025:2005(E) at 2-3.

⁵ *Id.*

Accreditation to ISO/IEC 17025 by an AB is verification that the testing laboratory *is* free from undue pressures and influences. Supplements to the existing accreditation procedures are burdensome, unnecessary and would serve no useful purpose.

Required Clauses in ISO/IEC 17025

Although ISO/IEC 17025 is the standard for laboratory competence and calibration, complete compliance with all clauses is not necessary for testing labs in all cases. For example, MDEA participates in the UL Data Acceptance Program, Client Test Data Program (“UL CTDP”).⁶ In this UL program, MDEA’s lab test reports on products tested internally without any external monitoring (save annual audits) are sufficient for UL safety certifications.

The UL CTDP does not require compliance with all clauses of ISO/IEC 17025 – even for safety testing. UL CTDP requires compliance with a significant portion of IEC/IEC 17025, and UL has judged certification to a subset is sufficient for safety testing.⁷

In our previous comments, MDEA made specific suggestions for laboratory accreditation, especially for in-house laboratories.⁸ Energy consumption measurements, such as required by the CEC and the ENERGY STAR program are not related to life-threatening aspects of products, and should not be held to a higher standard than those tests and measurements that *are* safety related.

Although MDEA is most familiar with the UL CTDP, we are not suggesting that UL be the only laboratory to be accredited to the ENERGY STAR program. In fact, we recommend that as many laboratories as possible have their client test programs accredited. A wide selection of accredited laboratories should help keep test costs and ultimately consumer product prices at their lowest possible levels.

Accreditation Bodies

The Draft Criteria also require that laboratories maintain accreditation “by an EPA-recognized Accreditation Body”.⁹ There is no need for EPA to create an accreditation body approval process, nor is there any need for EPA to construct a list of “recognized” accreditation bodies.

Laboratories that meet one of the following conditions should be permitted to test products for ENERGY STAR qualification: (1) current laboratory accreditation by the American Association for Laboratory Accreditation (“A2LA”), (2) current laboratory accreditation by the National Voluntary Accreditation Program (“NVLAP”), or (3) successful laboratory audit within the previous 12 months by an organization recognized by the Occupational Safety & Health Administration (“OSHA”) as a Nationally Recognized Testing Laboratory (“NRTL”) having a scope of accreditation that includes ISO/IEC 17025.¹⁰

⁶ See <http://www.ul.com/global/eng/pages/offerings/services/programs/dap/>.

⁷ Underwriters Laboratories, *UL Client Test Data Program* (2008), available at <http://www.ul.com/global/documents/offerings/services/programs/dap/ClientTestDataProgram.pdf> (describing the applicable clauses of ISO/IEC 17025 as clauses 4.3.1, 5.4.1, 5.4.2, 5.4.7, 4.6, 4.9, 4.11.1, 4.11.2, 4.11.3, 4.11.4, 4.13, 5.2.1, 5.2.4, 5.3, 5.5, 5.6.2.2, 5.8 and 5.10).

⁸ Letter from Harlan Rogers, Senior Manager, Product Compliance, Mitsubishi Digital Electronics America to Katharine Kaplan, Environmental Protection Agency, Apr. 30, 2010 at app. A.

⁹ Draft Criteria at 1.

¹⁰ See *supra* note .

Laboratories that meet one of the above conditions are recognized by the testing community to be fully-qualified laboratories. There is no need for EPA to construct a parallel program.

It should also be noted that the "Declaration of Conformity" procedure (defined in 47CFR2.906) presently utilized by the Federal Communications Commission ("FCC") permits accredited test laboratories to evaluate certain products for compliance with federal radio frequency emission limits. The FCC requires the test laboratories to be accredited by NVLAP, A2LA or an accredited laboratory designated by the FCC under the terms of a negotiated Mutual Recognition Agreement ("MRA").

Specific Features of an In-House Test Regime

MDEA strongly believes that EPA should explicitly permit the incorporation of ENERGY STAR qualification testing into a laboratory's CTDTP process. In this way, EPA would have the same assurance that energy consumption testing was performed as properly as is safety testing by NRTLs such as UL and Intertek.¹¹

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Thank you for the opportunity to provide these comments and, as always, please feel free to contact us if we can be of any assistance.

Sincerely,

Harlan Rogers
Senior Manager, Product Compliance Mitsubishi
Digital Electronics America

Cc: Adam Goldberg, AGP LLC

¹¹ In order for a laboratory to be enrolled in the UL CTDTP program, it must have demonstrated a pattern of having a laboratory quality program, sufficient physical resources and equipment, qualified personnel and procedures needed to conduct specific tests. UL verifies these factors, and reassess each laboratory annually. Specific details are described in *supra* note .