



June 4, 2010

Ms. Kathleen Vokes  
U.S. Environmental Protection Agency  
ENERGY STAR for Set-Top Boxes  
1200 Pennsylvania Ave., N.W.  
Washington, DC 20460

**Re: Conditions and Criteria for Recognition of Laboratories for the ENERGY STAR® Program.**

Dear Ms. Vokes:

Thank you for this opportunity to comment on the proposed Conditions and Criteria for Recognition of Laboratories for the ENERGY STAR® Program. As explained below, Motorola urges that EPA align these requirements with the internationally-accepted standard ISO/IEC17025 "General requirements for the competence of testing and calibration laboratories" ("ISO17025 Standard"), and avoid imposing additional requirements on in-house laboratories.

Motorola agrees that testing of ENERGY STAR products must be done by accredited laboratories and strongly supports the proposed requirement that such testing be conducted in laboratories that are accredited to the ISO17025 Standard, which is widely used and highly regarded by such agencies as the U.S. Department of Energy, the Federal Communications Commission, and the U.S. Department of Agriculture. However, we do not support the draft proposal to impose supplemental requirements on in-house laboratories.

The ISO17025 Standard already includes extensive requirements that accomplish EPA's stated goal of ensuring that testing at in-house laboratories remains independent. In particular, Section 4.1.5 of the ISO17025 Standard requires that an accredited laboratory "have arrangements to ensure that its management and personnel are free from any undue internal and external commercial, financial and other pressures and influences that may adversely affect the quality of their work." For instance, at Motorola, the Product Compliance organizations are completely independent in reporting structure from the Engineering, Manufacturing, and Marketing & Sales organizations. In addition, the Product Compliance organization has complete authority to stop shipment of any product at any time in its life cycle if a compliance issue is identified.

The proposed supplemental requirements for managing compensation and career advancement for personnel at in-house laboratories are unmanageable for the typical large corporation. The typical corporation cannot separate employee compensation from the financial performance of the company. If a company is not sufficiently profitable, it will not be able to pay bonuses to employees and in fact may even lower compensation for employees. Similarly in a highly-profitable period, a corporation may be able to increase employee compensation or pay bonuses, and excluding laboratory employees penalizes them for no justifiable reason.

Furthermore, the proposed supplemental requirements assume that laboratory employees stand to gain by “passing” low-quality products, when in fact the opposite is true. It is essential to a company’s viability to have a robust compliance process in place that ensures only high-quality products are placed on the market. Similarly, the prohibition against the parent company advancing laboratory personnel penalizes employees by denying them the opportunity to develop in their careers. Without career advancement opportunities and equitable compensation packages, it would be difficult, if not impossible, to retain long-term laboratory employees, and employee retention is critical to a quality laboratory operation, as it allows the organization to develop a strong knowledge base and more robust verification processes over time.

Motorola is concerned that such requirements would make in-house testing infeasible, and force manufacturers to have all set-top box testing performed at third-party laboratories for ENERGY STAR purposes. As we noted in our previous comments (submitted to ENERGY STAR on April 16, 2010), third-party testing for set-top boxes would be prohibitively expensive due to unique product characteristics, and could have the unintended effect of discouraging participation in the ENERGY STAR program for this product category.

In addition, Motorola has concerns with many of the requirements listed in the “Reporting” section of draft proposal. A laboratory already provides detailed information to its Accrediting Body (“AB”) about the laboratory’s corrective action plans, deficiency resolutions, qualified personnel to perform ENERGY STAR-relevant accredited test methods, and so forth. Such disclosures are vital to the accreditation process, and contain highly confidential, proprietary business information. Motorola questions the need for making essentially the same disclosures to EPA when all authority for accreditation of ENERGY STAR laboratories will be delegated to ABs anyway. Furthermore, we have concerns about how this highly confidential information would be protected from FOIA requests.

In sum, Motorola urges EPA to adopt the ISO17025 Standard for accreditation of in-house laboratories, but not additional requirements. The ISO17025 Standard includes adequate safeguards to ensure that ENERGY STAR qualification testing at in-house laboratories remains independent. Such an approach also will help encourage broad participation in the ENERGY STAR program.

Please contact me if you have any questions regarding this matter.

Sincerely,

/s/ Jason E. Friedrich

Jason E. Friedrich  
Senior Director, Broadband Policy  
Motorola Global Government Affairs  
1455 Pennsylvania Ave., N.W., Suite 900  
Washington, DC 20004