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Comments - Recognition of Laboratories for the ENERGY STAR[®] Program

June 4, 2010

Ms. Kathleen Vokes
US Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Via email: ENERGYSTARVerificationProgram@energystar.gov

Dear Ms. Vokes:

I am writing on behalf of Rheem Manufacturing Company to address the proposed laboratory requirements for Energy Star[®]. Rheem is a privately held manufacturing company that began operation in 1925. Today, Rheem is a leading North American producer of water heaters, central warm air furnaces, air conditioners, swimming pool heaters and commercial boilers. The company's products are used for residential and commercial applications and operate on a variety of fuels. Our products are designed and tested within the U.S.A.

We applaud EPA for reviewing the Energy Star[®] program and addressing identified issues. We believe that the issues identified are with products other than covered products that already have rigorous performance testing and rating requirements specified by DOE (10CFR430) and FTC (16CFR305). Significantly increasing the burden on these products may actually deter participation in the Energy Star[®] program.

Rheem supports the concept of having qualified testing laboratories to develop the ratings for covered products and our testing and rating complies with requirements for covered products established by DOE, 10CFR430. These existing certification requirements for capacity and energy efficiency are rigorous to assure test results are statistically accurate and representative of model ratings. The existing enforcement program also follows rigorous statistical procedures to ensure the rating is representative of the population. With the current process, DOE already has the option to review certification test data from individual manufacturers. DOE has the option to review the Voluntary Industry Verification Program processes. It is expected that more active DOE participation in the process will provide confidence that applicable DOE regulations are rigorously and consistently enforced.

Rheem has laboratories that comply with ISO 17025 for UL and CSA safety certification tests. Rheem also has ISO 9001:2008 certified facilities that include their design (including

laboratories) and manufacturing processes. One potential method of further improvement could be to require formal ISO 17025 certification of manufacturers laboratories for their rating tests. ISO certification requires independent third party audits by Accreditation Bodies (AB) for verification of compliance with ISO requirements. We question if EPA has the experience and expertise to properly qualify ABs for the wide variety of products covered and believe that this should be left open to the manufacturer to select the appropriate AB rather than an “EPA-recognized Accreditation Body (AB).”

Rheem and other manufacturers have participated in voluntary certification/verification programs for covered products – furnaces, air conditioners and water heaters for many years. The AHRI (formerly GAMA/ARI) certification/verification program processes are documented and have a successful track record. Manufacturers participating in the Certification Programs sponsored by AHRI should be allowed to continue working within the currently established framework where AHRI acts as the third-party administrator for reviewing and certifying qualification testing accompanying certification data submittals from the manufacturer. AHRI provides an independent review of each certification data submittal for content and accuracy before a manufacturer is permitted to list a new product offering with AHRI. An additional measure for Energy Star® would have AHRI submit the certification data submittal to EPA on the manufacturer’s behalf for listing a new product offering with Energy Star®. It should be noted that the issues EPA is seeking to address in the Energy Star® program have not been with products or manufacturers that have been participants in the AHRI certification/verification programs.

For manufacturers that participate in the AHRI programs but have laboratories that are not ISO 17025 certified, an additional measure that EPA could implement would be to have annual inspection visits to participating manufacturer laboratories. This would verify that manufacturer laboratories are competent and complying with all key elements of ISO 17025 pertaining to testing and calibration activities associated with Energy Star® qualification testing for certification data submittals. This additional measure would provide an extra level of scrutiny verifying that manufacturer laboratories are carrying out its testing and calibration activities in such a way as to meet the requirements of ISO 17025 therefore satisfying the needs of the customer, the regulatory authorities and/or organizations providing laboratory recognition. Annual inspection visits for manufacturer laboratories that are ISO 17025 certified would be addressed by the AB.

With respect to the additional provision proposed by EPA regarding demonstrating the impartiality and freedom of laboratory management and personnel from any undue internal or external commercial, financial or other pressures and influences, this stipulation is not feasible to consider since manufacturers cannot physically isolate their laboratories and personnel working in them as independent entities from the parent company. If you refer to ISO 17025:2005(E) Section 4.1.4 along with accompanying Note 2 below, you will notice that this additional requirement was established specifically for third-party laboratories performing work for profit. Note 1 below clearly permits manufacturers to conduct first-party laboratory testing as long as the organization arrangement does not adversely influence the laboratory’s compliance with the requirements of ISO 17025.

4.1.4 If the laboratory is part of an organization performing activities other than testing and/or calibration, the responsibilities of key personnel in the organization that have an involvement or

influence on the testing and/or calibration activities of the laboratory shall be defined in order to identify potential conflicts of interest.

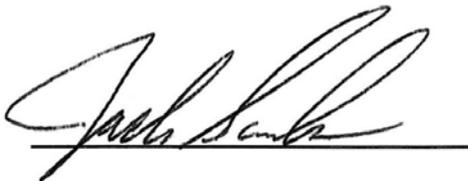
4.1.4 NOTE 1 Where a laboratory is part of a larger organization, the organizational arrangements should be such that departments having conflicting interests, such as production, commercial marketing or financing do not adversely influence the laboratory's compliance with the requirements of this International Standard.

4.1.4 NOTE 2 If the laboratory wishes to be recognized as a third-party laboratory, it should be able to demonstrate that it is impartial and that it and its personnel are free from any undue commercial, financial and other pressures which might influence their technical judgment. The third-party testing or calibration laboratory should not engage in any activities that may endanger the trust in its independence of judgment and integrity in relation to its testing or calibration activities.

Rheem believes that this proposed approach should provide EPA with the reassurance it needs to ensure that the credibility of the Energy Star[®] program is maintained.

Thank you for allowing Rheem Manufacturing Company the opportunity to provide these comments. Please do not hesitate to contact me if you need further clarification or have any questions about this submission.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan F. Kessler", is written over a solid horizontal line.

Cc: Alan F. Kessler, PE
Joe Boros, PE
Karen Myers