



ADMINISTRATIVE CENTER • 2000 N. M63 – MD 3005 • BENTON HARBOR, MI 49022 • 269.923.4646

Nick Gillespie
Government Relations

May 27, 2010

U.S. Environmental Protection Agency
ATTN: Kathleen Vokes
1200 Pennsylvania Ave., NW
Washington, DC 20460

Re: Energy Star® Draft Lab Requirements

Dear Ms. Vokes:

Before implementing any changes, we urge you to consider and address Whirlpool Corporation's concerns with the EPA's Draft lab Requirements proposal, which are outlined in this letter. In particular please consider the fundamental difference between what is necessary for accreditation bodies, and what is necessary for in-house manufacturer laboratories. Whirlpool believes the approach taken by EPA should be that an Accreditation Body regularly (annually) visit, test and certify manufacturers' in-house laboratories in order for them to qualify for submitting Energy Star data to the EPA. When coupled with our existing laboratory process, which maximizes the freedom from any undue pressures and influences as well as any other possible arrangement, you would have a robust and equitable laboratory qualification program for the ENERGY STAR program.

We appreciate your continued efforts to strengthen the ENERGY STAR program. Integrity is a key factor to maintaining the strong value of the ENERGY STAR brand and we're excited about the opportunity, through the collaborative effort that has been shared between the EPA, DOE and stakeholders, to help ensure that consumer have confidence that ENERGY STAR products are delivering the savings they expect.

Our ongoing commitment to the growth, success and integrity of the ENERGY STAR promise continues to be a strong source of pride for Whirlpool Corporation as a leader in designing, producing and marketing ENERGY STAR qualified appliances that reduce water and energy usage, save consumers money on utilities and reduce greenhouse gas emissions through superior energy efficiency.

Sincerely,

A handwritten signature in dark ink that reads "Nick Gillespie". The signature is written in a cursive, flowing style.

Nick Gillespie
Government Relations Senior Specialist

Whirlpool Comments to the EPA's Draft Conditions and Criteria for Recognition of Laboratories for the ENERGY STAR Program

General Requirements:

EPA Proposal; Page 1-

"Maintain accreditation to ISO/IEC 17025, "General requirements for the competence of testing and calibration laboratories," by an EPA-recognized Accreditation Body (AB). Noteworthy elements of ISO/IEC 17025 include requirements that laboratories shall:

- Have a policy that sets out quality objectives, commitments and operational procedures;
- Employ experienced personnel who have the education and training needed to conduct the tests;
- Have the physical plant facilities and test equipment needed for proper testing;
- Develop and maintain separate laboratory test methods for each accredited ENERGY STAR test method that detail how testing will be conducted utilizing the laboratory's test facilities, fixtures, equipment and personnel;
- Ensure that measuring equipment is accurate and calibrated and that calibration records are maintained;
- Maintain a record of all original observations, test data and calculations; and,
- Maintain arrangements to ensure the 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.

Whirlpool Comments:

Whirlpool believes the approach taken by EPA should be that an Accreditation Body regularly (annually) visit, test and certify manufacturers' laboratories in order for them to qualify for submitting Energy Star data to the EPA. The Accreditation Body could be required to submit data to the EPA which demonstrates the certification of the manufacturer's lab. The certified in-house laboratory of the manufacturer would perform energy & water efficiency testing and submit the qualifying product data to EPA. Currently our laboratories are certified annually by the Canadian Standards Association. We work closely with them in rigorously demonstrating that the appropriate principles outlined by ISO/IEC 17025 are within our process for ENERGY STAR product qualification. The Whirlpool process includes rigorous equipment maintenance and calibration, detailed lab procedures and comprehensive record keeping on both equipment and test results.

We believe the Accreditation Body should meet the requirements of ISO/IEC17025, but need not be a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA).

Inter-laboratory Comparison Testing:

EPA Proposal; Page 2-

- Agree to participate in relevant and available inter-laboratory comparison testing (ILC) when EPA/DOE deems it necessary.
- Carry out ILC in accordance with normal testing /calibration and reporting procedures, unless otherwise specified in the instructions from the proficiency test provider
- Submit to EPA/DOE upon request
 - The results of ILC;
 - The analysis of those results; and,
 - Detailed corrective action responses for any outlying or unacceptable results

Whirlpool Comments:

Whirlpool Corporation recognizes the value of inter-laboratory comparison testing (ILC) and is willing to participate in relevant ILC. However, it is imperative that the process be reasonable and appropriate in its volume and frequency given the significant time and cost constraints associated with 'round robin' testing.

Reporting:

EPA Proposal; Page 2 & 3 –

“Submit to EPA 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 their work. In the case of “in-house” laboratories, this 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 conducted in accordance with the International Federation of Inspection Agencies (IFIA) Compliance Code or equivalent standards for ethics and compliance programs; and,
- Mechanisms for reporting and responding to attempts to exert undue influence on the test results are in place. This shall include establishment of an external system for employees to make such reports and follow-up on such claims, as well as regular education of staff as to what avenues are available to them should they identify attempts to influence test reports.

Whirlpool Comments:

This portion of the proposal is unreasonable in that it goes well beyond International Standards such as ISO 17025. Moreover, manufacturer's certified labs are only successful if we are able to attract develop and retain talented, high-caliber laboratory employees. It is natural that some portion of their compensation be tied to the financial performance of the parent company and that their career opportunities include possible movement into and out of the qualification lab role. As such, we are able to attract employees who are not only top performers, but live up to a high standard of ethical business behavior. All employees at Whirlpool Corporation are required on an annual basis to sign our company Code of Ethics, which strictly prohibits engaging in unethical behavior as a condition of employment. In addition, we maintain a confidential hotline which employees can call and/or email at anytime to report behavior of any employee that is not in line with our Code of Ethics. This arrangement already maximizes, as well as any other possible arrangement, the 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 their work.

The technological sophistication of our laboratories and the highly advanced skill sets of our engineers are among the best in the world. Our lab personnel also have expansive job scopes, which include more responsibility than just testing product for energy performance. Therefore, this proposed provision would force our company to hire additional third party contracted employees that are dedicated solely to performance testing, thereby increasing our operational cost significantly. Moreover, having to use outsourced employees would cause a gap in consistency, leading to a less stable, less qualified, less repeatable, and less accurate environment for in-house manufacturer testing. If Whirlpool Corporation were obligated to hire a third party firm that provided contracted engineers to work in our labs, the potential for reduced freedom from undue influence would be more likely than our current arrangement. This reflects: (a) the inherent monetary incentive for third party firms to do whatever they can to retain their client's business and (b) the potential for contracted employees to do whatever they can in seeking to be hired in to (often more lucrative) jobs within the companies to whom they are contract.