



## Information Technology Industry Council

Leading Policy for the Innovation Economy

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**FROM: Christopher Hankin  
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**SUBJECT: Final Draft, Conditions and Criteria for Recognition of Certification Bodies**

### **OVERVIEW**

ITI welcomes the opportunity to provide comments and recommendations regarding this final draft, and appreciates the dialogue that has occurred to date on the new testing and verification proposals.

The US IT industry has long encountered foreign government use of standards, testing, and verification requirements that have had, intentionally or unintentionally, destructive market access and cost implications for the US IT industry. ITI and the US government have long partnered together to combat these practices.

As foreign governments increase their interest in establishing new national standards, testing, and verification requirements for energy efficiency for computers and related IT equipment, the IT industry has been fearful of new difficulties with market access, cost increases and a competitive marketplace. To date, thankfully, the IT industry has normally been in the advantageous position of being able to cite the ENERGY STAR® program – its structure, product specifications and measurement standards, and US EPA's formal and informal mechanisms for coordination with foreign governments -- as the gold standard that other governments should emulate.

The initial proposals for the enhanced ENERGY STAR testing and verification requirements caused ITI significant concern. The proposed new requirements could undermine Energy Star's worldwide leadership in IT energy efficiency. While recent steps to adopt ISO 17025 accreditation for testing laboratories reduce our concerns, there remains several outstanding issues that ITI wishes to bring to your attention: (1) the requirement for a substantial North American presence for the CB, (2) the current timeline for conversion to the new requirements, and (3) the apparent lack of consultation with and sensitivity to the concerns of partner governments.

The requirement for a CB to have substantial North American presence potentially creates logistical problems for the US IT industry since most of our products are not manufactured in North America. In order for Energy Star qualified IT products to maintain a fast time to market, it is necessary for CBs to have a presence in the geographies adjacent to the manufacturing sites.

This new requirement also resembles protectionist-like proposals we have seen too often from foreign governments, such as the need for domestic labs to perform testing and/or verification. The US government has in the past joined ITI in addressing these localized constraints, helping ensure a globally accessible marketplace for IT products.

With regards to the timeline, at the June 23rd meeting ITI provided EPA with an explanation of why the current schedule is unachievable for the IT industry under the proposed certification process. (See attached GANTT chart.) ITI continues to believe that interim measures will be necessary under applicable international standards as our industry, the testing laboratories, CBs, and ABs will not be ready for a January 2011 enforcement date. These interim measures need to be announced soon to allow for product updates and a smooth transition.

Finally, ITI is informed that the ENERGY STAR global partners have neither been formally notified nor adequately consulted as EPA has developed its new testing and verification requirements. This too threatens to devalue the global nature of the ENERGY STAR brand and drive regional requirements for product energy efficiency. We ask that EPA take immediate steps to formally notify their global partners and to engage in discussions to establish a globally recognized system that can be implemented in all partner jurisdictions.

## **SPECIFIC COMMENTS**

### **Section 1b. "Have a substantial North American Presence"**

As already noted, ITI is very concerned about the addition of this requirement for the certification body. One of the key values of the ENERGY STAR program is the international partnerships and recognition of the brand. Simply speaking the ENERGY STAR voluntary requirements have been adopted by major economies around the globe.

The requirement for a "substantial" North American presence also goes against the global nature of the IT industry's product development, manufacturing, and testing infrastructure. Many in the IT Industry have product test labs and manufacturing facilities in the Asia Pacific, European, as well as the Americas regions. In order to avoid unnecessary costs and scheduling difficulties for product qualifications and verifications, and to avoid even the appearance of protectionist motivations, this requirement could be restated as follows:

"A Certification Body will be required to have a presence in the countries or region in which the products for which they are responsible are manufactured and tested and maintain an office in Washington D.C. to serve as the liaison between US EPA and the certification body. The Certification Body should also make the necessary arrangements with other ENERGY STAR partners (EU, Canada, Australia, etc.) to support their product qualification and verification programs for their jurisdictions."

This statement more accurately reflects the level of presence the certification body will need to have around the globe to successfully administer and implement the qualification and verification process detailed in the relevant documents. It also is consistent with the spirit of the partnership agreement with ENERGY STAR program country partners.

If not replaced or clarified, Section 1(b) as currently phrased could give the appearance of requiring local test facilities and approval, thus paralleling unfair requirements in the South Korean e-Standby law and Chinese CEC requirements, requirements that the US IT industry and US government have fought. We fear the effect could be to embolden other regions and countries to move to mandating local test facilities and approvals, repeating the regulatory mistakes and challenges experienced by the US IT industry for safety and EMC issues 20 years ago. The net effect would be to raise the cost of products, with no corresponding or net improvement in efficiency for consumers.

ITI has suggested and seeks to work with EPA on a suitable replacement to the "Have a substantial North American Presence" requirement.

### **Section 1c. Lab Accreditation Options.**

ITI does not understand why EPA has established separate distinct lab accreditation processes, one administered by the AB (Subsection i) and one administered by the CB (Subsection ii and Appendix A). EPA should have a single body responsible for the accreditation of labs – either the AB or the CB. The current approach creates two separate sets of accreditation requirements, opens up the opportunity for inconsistencies and conflicts in the process, and drives additional costs for manufacturers as they are being required to support two separate and distinct accreditation bodies and processes.

EPA should either remove the lab accreditation process (Appendix A) from the CB's Conditions and Criteria or eliminate the AB requirements altogether and empower the CB to execute both the laboratory accreditation and product qualification and verification processes. This comment about duplicative process requirements was originally made in the IT industry's comments dated 6/28/2010.

ITI commends EPA for removing the requirements for the review of manufacturing specifications and assessments of manufacturing facilities that were contained in the previous draft of the CB Conditions and Criteria.

With the number of uncertainties in the interpretation of the roles of each entity and the process by which the entities are certified versus the products, ITI suggests using the attached (and aforementioned) GANTT chart to describe the certification process and the roles each of the entities are responsible for.

Further, ITI recommends that the documents clarify that ISO 17025 compliant facilities are not subject to mandatory witness testing. The specifications are unclear and should be restated that witness testing is an acceptable alternative to ISO 17025 compliance. ITI recommends outlining the process by which the AB's are qualified and the CB's and test facilities are certified. EPA's modification to ITI's existing GANTT chart would provide clarification.

ITI is concerned with the product qualification process as well. Specifically, how does the product qualification process change given the enhanced testing site procedures. A GANTT or process outline could be added in an appendix describing the following flow:

- Product testing of proposed ENERGY STAR compliant product is tested at either an ENERGY STAR recognized test facility or scheduled witness testing
- Data is submitted to a review body (CB) or reviewed on site (witness testing)

- Approval or rejection with corrective actions are provided by the review body no later than 3 business days after the data has been provided
- Upon approval, the product may be labeled or indicated as ENERGY STAR, though posting to ENERGY STAR lists may take up to 7 days to update.
- Appeal process through the ENERGY STAR office would be available no later than 3 days after an appeal has been submitted; with a written disposition and reason within 3 days after the appeal.

Note that we recommend that data review not be conducted by CB's who also offer test facilities for that particular product. This would avoid the conflict of interest highlighted by the industry. We recognize that the GAO report had also cited conflict of interest concerns. A separation of interests between an AB, CB and test facility for a given product category would further improve the transparency of the process in addition to addressing conflict of interest concerns.

**Section 2. "The ENERGY STAR program will consider CB cycle time with respect to the impact to product introduction cycle of ENERGY STAR partners."**

No specificity or criterion are provided on how or what would occur in selection of CB's to address ITI's timeliness concerns.

ITI recommends that the ENERGY STAR program establish service level agreements for the CB's and AB's with respect to deliverables, specifically approvals or rejections.

**Section 3a. Verification Testing.**

ITI appreciates EPA's decision to establish a base model definition for verification testing within the product program requirements. However, the base model should take into account product cost, as some currently qualified server products have a minimum cost of \$16,000 for a minimally configured product and \$500,000 for a fully configured product. The cost of verification testing will be unreasonable if EPA does not limit testing to minimum configurations.

This problem will be exacerbated on storage systems, when those requirements are established, due to the size of some systems and the number and cost of the storage devices required to fully populate a storage system. Similar but different characteristics exist for the USP systems such as physical size and weight that exacerbate the USP testing requirements.

EPA should extend this proposal to other aspects of the product, incorporating the process of setting criteria for the following activities into the development process for the ENERGY STAR product requirements:

- a. Product selection and procurement process for verification testing;
- b. The process for procuring products for verification testing; and
- c. Testing requirements.

Due to the diverse physical size, energy using characteristics, and cost of products which can be qualified under the ENERGY STAR program, it is appropriate to establish these requirements in the product requirements development process to tap the expertise and knowledge of the various stakeholders in a given product category to find the best methodologies and approaches to manage the testing and verification requirements.

A concern specific to enterprise server products involves the number of product qualifications that must be done under the current product family definitions which require separate product listings for processor power use, occupied processor sockets and core count. This results in a manufacturer submitting 8 to 20 product family datasheets for a product family whose characteristics should allow it to be classified as a single product family. While this is being discussed as part of the Tier 2 computer server requirements development process, the current system will require an inordinate amount of verification testing, even at a 10% sampling level.

ITI would like to propose an alternate process for verification testing. Some manufacturers perform product verification testing for compliance as part of their laboratory, quality system, and Energy Star product management programs. An alternative verification testing option should be made available that augments verification testing to the periodic ISO 17025 compliance audits. Since these periodic audits are required to maintain ISO compliance, the option would eliminate the duplication of audit testing activities for most products. This will enable the Energy Star program to receive verification testing data while allowing manufacturers to utilize data generated from their laboratory control processes.

In addition, ITI recommends that the EPA set a maximum limit of products that can be subjected to verification testing in a given year. This maximum should be specified in the product specific documents that EPA plans to develop, permitting EPA to take into account the extreme diversity in the types and complexity of products covered in the Energy Star program.

#### **Section 3(a)(4). Procurement of Units for testing.**

EPA's clarification of procuring verification samples "off the line" does not adequately address the procurement situation for enterprise IT equipment. The IT industry cannot make a customer ordered and specified IT System available to the CB for testing as required in Section 3(a)(4)(b)(ii). The system needs to be ordered through the IT industry fulfillment system specifically for the verification testing. The CB can then contact the IT industry manufacturers, identify the order number, establish the date that the system will come off the line, and arrange for the verification testing.

ITI restates the recommendation in its June 28, 2010 comments that EPA add a 4<sup>th</sup> method, ordering a model through a company's fulfillment system, for obtaining systems for verification testing.

#### **Timeline.**

ITI continues to be concerned that the new accreditation and certification process will not be up and running by January 1, 2011. In particular, the IT product specification updates planned for August and September 2010 would push the expected timeline for initial Energy Star products well beyond the current targets.

ITI has presented EPA a detailed timeline (GANTT) that estimates the time for properly setting up the qualification and verification process pursuant to international standards.

ITI has two recommendations. One, the EPA should prepare a schedule using critical milestones and dates and make such schedule publicly available. This is important to industry, as it will provide transparency and predictability in order to properly manage toward the goal EPA has set. Second, if this schedule begins to prove unachievable,

then the EPA should immediately work with stakeholders on appropriate interim measures.

## **CONCLUSION**

ITI has worked closely with the EPA on Energy Star for IT products since the program's inception. It has been a good partnership. However, this current effort to set up new testing and verification procedures has been troubling. While we fully share the objective of reducing the program's vulnerability to fraud and abuse, we also fear the unintended consequences of unilateral and misguided actions that could impair the program's global effectiveness.

The international issues cited above as well as the timeline problem need addressing. On the latter, we simply do not believe the current schedule can be achieved for IT products. The process of selection and approving labs and training lab personnel in both accreditation and certification bodies is unrealistic. We have presented our estimate of an achievable schedule.

The consequence of not taking the prudent steps that ITI has recommended is that starting next year there is a high likelihood of (1) an undermining of the Energy Star brand globally for IT products, and (2) qualified US IT products being shipped without the Energy Star logo. This is not to the advantage of EPA, the consumer, or industry.