

MEMORANDUM

November 21, 2008

From: Don Stevens
To: Josh Forgotson, ICF
CC: Andrew Fanara, EPA

Thank you for the opportunity to comment on this latest draft. While this latest proposal does not give us exactly what we wanted, it is an improvement over the earlier draft and represents a collaborative effort between HVI and AMCA to formulate a program that is in the consumers' best interest and which is representative of the industry's wishes. I have a few comments to make, but overall it is a vast improvement over the first draft.

Here are the key points to which I want to comment:

1. The reinstatement of a third-party certification requirement is a positive move. Though I would prefer that the certification requirement be exclusive to HVI, I am willing to support the inclusion of AMCA's certification program so long as the principal differences between the two programs are identified and "bridged" in the ENERGY STAR document, ensuring that access to the ENERGY STAR rating remains equal for all manufacturers. Don't worry, we will challenge product claims that do not appear to be valid.
2. It is imperative that the ENERGY STAR program accept testing results which come from pre-authorized, independent third-party laboratories only. Lab results from manufacturers' internal labs must be disallowed. I am not sure the current language adequately closes any loopholes which may permit AMCA members to submit lab reports based on testing done at their own internal labs.
3. The Efficacy calculation in the latest proposal requires that CFM be rounded down to the nearest whole CFM. While this gives the highest cfm/watt calculation, this conflicts with HVI's long-standing practice of rounding CFM down to the nearest 10 CFM. Since 98% of the independently certified ventilating products are following HVI's rounding practices, it seems that changing the rounding process would result in inconsistency in product promotion and labeling which will result in confusion in the marketplace. We strongly urge EPA to require that CFM be rounded down to the nearest 10 CFM in keeping with the industry-accepted practice. Advertising that a fan provides 63 cfm rather than 60 cfm is an unnecessary level of accuracy that will lead to problems in the marketplace and possible conflicts in meeting both the HVI advertising and labeling requirements and those of Energy Star. Panasonic will continue to report the performance in even 10 cfm increments.
4. There are currently only two laboratories in the world which are authorized to conduct testing for purposes of performance certification of residential ventilating fans. The principal lab, Energy Systems Lab at Texas A&M University, does not hold ISO/IEC 17025 accreditation. The proposed language seems to disallow this lab from continuing to test products on behalf of HVI, as it has done for over 40 years. This would raise the specter of restraint of trade by EPA. It should be sufficient for the two trade associations to certify the labs they will accept.

-
5. Beyond holding any specified lab accreditation, qualifications for testing laboratories must specifically address low-sone capabilities. HVI analysis indicates clearly that there are noticeable variations in sound testing results conducted at the two different labs, let alone any other labs. Labs must be required to demonstrate their capabilities in this area before being authorized to conduct testing on behalf of ENERGY STAR. Again, this is the province of the trade associations to determine what labs are capable of providing this level of accuracy when measuring low sone fans. I recommend that EPA leave that to the organizations that deal with this all the time.

Again, thank you for the opportunity to comment on these new requirements. I have found your process to be rather cumbersome with tremendously long times for EPA to do something and then unreasonably short time for us to comment.