



November 7, 2017

House Energy & Commerce Committee
Subcommittee on Energy
2125 Rayburn House Office Building
Washington, D.C. 20515

Chairman Upton and Ranking Member Rush:

On behalf of Underwriters' Laboratories (UL) we appreciate the House Energy & Commerce Committee's continued interest in the ENERGY STAR program and ensuring it continues to function in a way that serves the intentions of the program and offers benefits to consumers, without being overly burdensome to manufacturers.

UL is an independent, product certification organization that has been writing product standards, testing products, and certifying product performance for over a century. This unique experience in providing a range of compliance solutions for manufacturers, consumers and government regulators globally for over 120 years has provided our organization unique insights into how laboratory accreditation, testing and certification, and ongoing surveillance can be structured to promote conformity. Some of the services offered by UL include: inspection, advisory services, education and training, testing, auditing and analytics, certification software solutions, and marketing claim verification.

While we appreciate the Committee's interest in the ENERGY STAR program, we have concerns over one of the provisions being contemplated in the *ENERGY STAR Reform Act* discussion draft that would remove the third-party certification requirement for a specific segment of the ENERGY STAR program. This move appears to be a solution in search of a problem and threatens to return ENERGY STAR to a time when concerns over the validity of the efficiency claims of its products called the entire program into question. This provision will undermine the ENERGY STAR program.

Program Integrity

ENERGY STAR is a longstanding initiative that is broadly supported by manufacturers, retailers, utilities, energy efficiency advocates and consumers. While the program is very popular with both manufacturers and consumers, it was only a few short years ago when the ENERGY STAR program was subject to a GAO investigation that found significant issues with the program's oversight. That 2010 report led EPA to work with industry and companies like UL, to establish third-party certification as a way to provide program oversight and integrity without creating additional bureaucracies.

The U.S. government relies on the resources of the private sector to provide third-party certification to ensure products entering the market are safe, reliable, and efficient. To ensure safe products are used in the workplace, the Occupational Safety and Health Administration (OSHA) recognizes private sector organizations through the "Nationally Recognized Testing Laboratory" program (NRTL's) to perform certification for certain products to ensure they meet both construction requirements and industry standards. In order to earn the ENERGY STAR label, a similar approach is prescribed. UL, and companies like it, had their labs accredited by EPA and began to fulfill this obligation and quickly re-established trust in the program.

Since then, the program has been operating smoothly, and without any additional cost to the federal government. In fact, the House Appropriations Subcommittee on Interior, Environment & Related Agencies noted in the report language that accompanied its FY2018 Appropriations bill:

“In addition, the Committee continues to support the ENERGY STAR program and does not terminate the program as proposed... In addition, EPA appropriately took action to restructure the program in 2011 following questions about program integrity. The Agency established third party certification requirements that directed many product review responsibilities to outside vendors...Further, the Committee does not support the termination of voluntary programs such as Natural GasSTAR, AgSTAR, and other partnership programs where EPA works collaboratively with non-governmental entities to identify beneficial methods to reduce emissions, pollution, and increase efficiency.”¹

It is worth noting that in addition to providing up-front certification of products to the ENERGY STAR criteria, accredited Certification Bodies also provide after-market surveillance on products to ensure continued compliance. In doing so, we ensure that products that earned the ENERGY STAR mark continue to perform at or beyond the levels specified in the criteria.

The proposed provision would also only impact one segment of the ENERGY STAR program, consumer electronics. The other product categories – from lighting to home appliances – would still be required to utilize the third-party certification structure set up by EPA to demonstrate compliance. Manufacturers selling products in multiple categories would have different processes for having their products listed on ENERGY STAR, creating additional confusion and an uneven playing field in managing the program.

Time and Cost

We have heard concerns that the third-party certification process is too time-consuming and costly. We believe these concerns to be unsubstantiated. The provision in question would remove third-party certification for the consumer electronics category of products within the program. From a manufacturer's perspective, the most expensive product category for testing and certification within this category of products is televisions which average approximately \$3,200 to run a full certification testing program. When considered in-line with the volume of television sets sold this is a small amount of the total cost of production. Per the ENERGY STAR program rules, that cost can be spread across multiple product variations. For instance, manufacturers can select one sample to represent an entire family of products of multiple sizes. Basically, a manufacturer would pay UL the \$3,200 for the testing of a 40" LED television and if it met the criteria, the manufacturer would be able to list its 45", 50", 55", 60" versions of that LED television based on that one test report. Furthermore, if a manufacturer has their own accredited laboratory, they can conduct their own efficiency testing. In those instances, the manufacturer would only need to share their test results with a third-party certification body and their product would be listed on the ENERGY STAR website. The cost of simply certifying accredited test results falls to approximately \$500.

¹ House Appropriations Committee, Subcommittee on Interior, Environment & Related Agencies. Full Committee Report. <https://appropriations.house.gov/uploadedfiles/23918.pdf> P. 56

We have also heard that the process is too time-consuming and that products need to be taken to market faster. For UL, our expected turnaround time is approximately two weeks to test and certify products, provided that they do in fact meet the efficiency standard on the first try. If the product fails the standard, which occurs about 15% of the time in the case of televisions, then that timeframe is certainly extended as the manufacturer makes improvements to meet the criteria.

For both issues, it should be noted that there are currently 24 EPA-Recognized Certification Bodies from which manufacturers can shop for services based on their needs (price, turnaround time, ease of working with). This competition helps to keep prices low and turnaround time quick allowing manufacturers to switch to providers that best meet their needs. Removing 3rd party certification would remove the private sector from this role and result in either the program going unchecked or a government agency (whether it is EPA or DOE) to fund staff to review submissions.

Finally, let's remember that the program is voluntary. No manufacturer has to participate in the program. Manufacturers do participate because they know that consumers recognize and seek out the ENERGY STAR label. Those consumers seek out ENERGY STAR qualified products because they believe that those products are held to a higher efficiency standard. If confidence in that mark wanes, the program will begin to lose its value to both consumers and manufacturers.

Conclusion

UL opposes efforts to remove third-party certification from the ENERGY STAR program. The program has enjoyed broad, bi-partisan support over its existence because of its ability to reduce electricity costs for consumers while providing manufacturers with additional brand recognition that they leverage in the development and sales of their products. Changes to this conformity assessment approach threatens to undermine the long-term viability of the program.

Given the recent history of the ENERGY STAR program and the improvements made to ensure the program is not subject to fraud and abuse, it is concerning that an effort would be made to undermine the integrity of the program.

Sincerely,

Derek Greenauer
Director, Global Government Affairs
UL, LLC