



Comments on the June 2011

Draft Revised WaterSense Certification Scheme

September 29, 2011

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Commenter Name: Maribel Campos
Commenter Affiliation: ICC Evaluation Service, LLC
Date of Comment Submission: June 29, 2011

Topic: New Section 5.1

Comment: This section is not needed since Guide 65 covers this and Guide to Guide 65 covers impartiality in detail. More over ISO/IEC 17065 covers this verbatim.

Rationale:

Suggested Change (or Language):

Topic: New Section 5.4.1

Comment: Not clear if the 2nd “resources” in the first sentence is referring to an internal lab or not. Also, evaluators aren’t specifically addressed within ISO/IEC 17025 since it mainly covers testing.

Rationale:

Suggested Change (or Language): If this is referring to a lab then suggest change the word “resources” to “lab”.

Topic: New Section 5.4.2

Comment: This section is not needed since Guide 65 and other referenced documents will cover this.

Rationale:

Suggested Change (or Language):

Topic: New Section 5.4.2.1

Comment: Why is ILAC the only body who can accredit the laboratory? APLAC can also provide that service. Also why does the lab have to be accredited?

Rationale:

Suggested Change (or Language): Suggest changing language to “provided the laboratory is in conformance with ISO/IEC 17025 with a scope to include the relevant WaterSense product specification.”

Topic: New Section 5.4.2.2.1

Comment: Why are the requirements in this section for 1st party manufacturing test lab less than the requirements that a third party lab has to comply with? It seems a third party lab must be accredited but a 1st party manufacturing test does not? Was that the intent?

Rationale:

Suggested Change (or Language):

Topic: New Section 6.6.2

Comment: Where was this 15% value established from?

Rationale:

Suggested Change (or Language):

Topic: Section 6.7

Comment: Editorial Change

Rationale:

Suggested Change (or Language): Suggest adding “/IEC” in the 2nd sentence as noted above.

Commenter Name: Tim Keane
Commenter Affiliation: Legionella Risk Management, Inc.
Date of Comment Submission: July 10, 2011

Requirement for “WARNING LABELS” regarding Waterborne Pathogens including Legionella and Pseudomonas.

**Topic: Very Low Flow Faucet Restrictors of 1.0 gpm or less
Legionella Enabled Engineering Design (LEED)**

Comment: Extreme low flow faucets restrictors are known to significantly add to waterborne pathogens (Legionella, Pseudomonas, etc.) colonization risk. Manufacturers should be required to add Legionella risk warnings to product label and to include recommended measures to minimize Legionella risk. If EPA is going to strongly recommend and endorse technology they should at least require the inherent risks of these technologies be enumerated.

Rationale: 1.0 gpm very low flow restrictors and much, much worse 0.5 gpm ultra-low flow restrictors dramatically reduce the velocity and turnover in drop legs to faucets and in the faucets themselves. This results in extremely low to stagnant flow conditions (ft/sec) in valves and plumbing that are sized for much higher flow rates. With extremely low turnover any residual chlorine that may be in pipes is consumed during the prolonged retention time and biofilm growth is increased. 3 to 5 ft. / sec velocity is recommended water flow in piping to minimize corrosion, deposition, and biofilm growth. These facts are well established and well known. Johns Hopkins Hospital Sensor faucet study has proven, what I have personally seen in Legionnaires’ disease outbreaks, that modern, poorly designed components and piping systems are increasing the rate of Legionnaires’ disease cases.

Suggested Change (or Language):

Require manufacturers to add “WARNING” label with all very low restrictors (1.0 gpm or less) that states the following “WATERBORNE PATHOGEN RISK”:

- 1) Low turnover of water in plumbing lines greatly increases the risk for waterborne pathogen proliferation including Legionella and pseudomonas.
- 2) Drop legs (supply pipes) supplying faucets with very low flow restrictors should be sized for the faucet flow restrictor flow rate to insure adequate turnover of water in these lines and minimize potential for stagnation. Manufacturers should be required to list recommended drop leg sizing including maximum diameter and maximum length for 1.0 gpm, 0.75 and 0.5 flow restrictors. (Example –faucets with 2.2 gpm flow restrictors should have a 1/2” or 3/8” supply line and those with a 0.5 gpm flow restrictor should be fed by a 1/4” pipe no more than 6’ long.)
- 3) These faucets should never be used in moderate or low use applications where potential for stagnation is dramatically increased.
- 4) EXTREME WARNING - The risk of waterborne pathogen colonization due to very low flow restrictors is significantly enhanced when these low flow restrictors are used in the following applications:
 - a. With complex valves such as electronic faucets and/ or temperature limiting faucets or

- b. In buildings where hot water temperature is restricted to less than 124°F at the distal site.
-

Topic: Complex faucets such as electronic (sensor) and thermostatic faucets are known to significantly increase risk for Legionella colonization.

Comment: Faucets with complex internals including seals, actuators, check valves, etc., and large and porous surface areas are ideal for bacteria and biofilm growth. Electronic faucets and thermostatic faucets are by design a much higher risk for colonizing bacteria and biofilm than simple mechanical faucets. This is significantly compounded by adding low flow restrictors to these complex faucets. Sensor faucets are frequently supplied with 2.2 gpm flow restrictors and 0.5 gpm flow restrictors. This indicates that the valve internals are sized for 2.2 gpm or higher flow and at 0.5 gpm are running at 25% or less of design flow. Additionally, these faucets have multiple, inaccessible strainers very difficult to maintain which can trap bacteria and solids. Also, these faucets have weak internal spring loaded check valves designed to keep the cold water from mixing with the hot water and frequently leak resulting in cross contamination of cold into hot or hot into cold and consequently tepid water.

Rationale:

Suggested Change (or Language):

At the very least these manufacturers should be required to include a WARNING LABEL that lists the inherent risks of low flow, low turnover, cross contamination and increased need for maintenance and replacement of strainers and gaskets. Manufacturers should be required to:

- c. List components that need maintenance and that these components are easily accessible.
- d. Recommend that whole house strainers be used when possible to reduce fouling potential for these faucets with significant surface area for bacterial and biofilm colonization.
- e. List if materials used are known to be less conducive to biofilm growth
- f. Have warnings that when these faucets are used with very low flow restrictors of 1.0 gpm or less that there is an increased risk for bacteria colonization.
- g. Have warning that when these faucets are used with 124°F or less hot water or 78°F or higher cold water that the risks for waterborne pathogens is significantly elevated.

Please keep in mind some groups / associations designed to provide public benefit have tried to squash these known facts to provide support for technologies heavily in use or that they have strongly endorsed. Some of these groups are interested in some extent to uncovering the truth while some are more interested in covering up the truth.

Commenter: Chris Paulsen
Affiliation: Inax USA
Comment Date: July 20, 2011

Topic: Reporting Water Sense labeled products to the EPA (Section 6.5)

Comment: Why must the LCB report Water Sense labeled products to the EPA? This responsibility should remain with the manufacturer. When additional responsibilities are transferred to the LCB, the cost of those additional responsibilities will be transferred to the manufacturer.

Rationale:

Suggested Change (or Language): Keep this responsibility with the product manufacturer.

Topic: Surveillance (Section 6.6)

Comment: This requirement places an added cost burden on the manufacturer. It also places additional (and therefore more costly) burdens on the LCB. How will the LCB decide what products need to be surveyed? Darts? A Ouija board, maybe? This section also requires product retesting for surveyed products. This is another cost burden for the LCB, which will, of course, be transferred to the manufacturer. Does the EPA believe that manufacturers cannot be trusted to keep their products in continuous compliance with Water Sense specifications?

Rationale:

Suggested Change (or Language):

Commenter: John Bertrand
Affiliation: Moen Incorporated
Comment Date: July 22, 2011

Topic: Section 5.4

Comment: Allow an alternate statement location such as a WaterSense product cover sheet.

Rationale: Provides a reporting option for manufacturer's and alleviates changing a generic test report form used for all products.

Suggested Change (or Language): "In addition, all test reports shall be accompanied by the following statement, located either on the test report or an attached cover sheet:"

Topic: Section 6.2.5

Comment: The certifier is required to post to its website "all of the information collected as part of the application process".

Rationale: Manufacturer's submit confidential information as part of the application process and it is not appropriate information to share on the website.

Suggested Change (or Language): Remove this language from the requirement.

Topic: Section 6.5

Comment: The certifier is required to report all currently listed products to update the WaterSense web registry. This new requirement has not been fully reviewed by the certifiers and manufacturer's to understand the effort, logistics and costs involved. Change the language so that the certifier only needs to report new models as they are certified. A complete refresh of the database should not be required.

Rationale: This will ultimately add cost for the manufacturer's which may become unnecessarily burdensome for smaller manufacturers.

Suggested Change (or Language):

6.5 Reporting WaterSense Labeled Products to EPA

The licensed certifying body shall notify EPA of the products that it has certified. This notification shall be made on a product-specific notification template available on the WaterSense website and shall contain the relevant product information for ~~all~~ any WaterSense labeled products not currently listed on the licensed certifying body's WaterSense labeled product listing, including information for private labeled products. EPA will use this information to update its WaterSense labeled product Web registry.

Topic: Section 6.6.2

Comment: The 15% annual testing requirement is excessive.

Rationale:

- 1) This requirement will add substantial cost for manufacturer's because it requires a statistical sampling with product that can be obtained at a retail outlet at the manufacturer's expense. Testing must be performed at the certifier thereby adding further cost. This will get quite expensive and the costs will eventually be borne by the consumers. If costs grow too large, some manufacturers may reduce their participation or cease altogether.
- 2) Certifiers may not have the capacity to handle a large increase in product testing and this will become increasingly burdensome as the WaterSense program continues to grow. This may create a huge backlog at certifiers that in turn will impact the certification and introduction of new products.
- 3) Certifiers 3rd party certification procedures have a long history of success using current surveillance auditing procedures which target among other things, health and safety performance of products. This degree of monitoring is not commensurate with the aspect being monitored, water savings.

Suggested Change (or Language): Delete this requirement and allow certifiers to continue to monitor compliance through their well established surveillance auditing procedures.

Commenter: Al Dietemann
Affiliation: Seattle's Saving Water Partnership
Comment Date: July 22, 2011

My comment on certifications: Given all the historical problems at Energy Star and elsewhere with manufacturer self certifications (with or without certified bodies observing), I'm opposed to WaterSense certifications going this direction, even if it does add costs to manufacturers. The WaterSense brand should be a Premium label. It should be understood that Premium labels are more expensive than non-labeled products. Independent lab certification of the majority of a manufacturers models will add significantly to their costs. I can understand why they want a less expensive option. But mass labeling defeats the intended purpose of WaterSense to certify only the most efficient models. Manufacturers should be selective and pick and choose the models they want to be certified if they want to keep their costs lower, not look for ways to lower certification costs.

Note: This comment was superseded by a subsequent comment submitted by the commenter on August 15, 2011 (see page 26).

Commenter: Fernando Fernandez
Affiliation: TOTO (manufacturer)
Comment Date: July 25, 2011

Topic: 5.4.1 Internal Resources

Comment: Requirements for CB's for evaluation services (testing)

Rationale: CB's should have more options for complying with the requirements for displaying competency for a WaterSense specification. While an independent, 3rd party accreditation is one method of proof, by no means should it preclude additional alternatives for demonstrating proficiency. The program has achieved a high level of success over the past 5 years in its current state. Restricting the evaluation activities by its own resources to mandating independent accreditation will add an unnecessary cost burden.

Suggested Change (or Language): (new verbiage in red font below)

5.4.1 Internal Resources

If the licensed certifying body performs evaluation activities with its own resources, it shall ensure that those resources are **either:**

- accredited by an International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Agreement (MRA) Signatory to ISO/IEC 17025 with a scope of accreditation to include the relevant WaterSense product specification(s) and ensure that the personnel conducting the testing have the necessary competence and expertise,
- **trained on the test methods to be used in the WaterSense product specification or,**
- **participants in the EPA's test method and specification development process for the relevant WaterSense product specification.**

Topic: 5.4.2.1 Independent Testing Laboratories

Comment: Requirements for independent testing laboratories to conduct evaluation services (testing)

Rationale: Allow same alternatives as in Clause 5.4.1. Furthermore, independent testing laboratories must currently undergo annual auditing by the certification body it is accredited by for showing compliance to ISO/IEC 17025.

Suggested Change (or Language): (new verbiage in red font below)

5.4.2.1 Independent Testing Laboratories

Licensed certifying bodies may allow an independent testing laboratory to conduct evaluation activities, provided the laboratory is **either:**

- accredited by an ILAC MRA Signatory to ISO/IEC 17025 with a scope of accreditation to include the relevant WaterSense product specification,

- trained on the test methods to be used in the WaterSense product specification as determined by the licensed certifying body or,
- a participant in the EPA's test method and specification development process for the relevant WaterSense product specification.

Topic: 6.5 - Reporting WaterSense Labeled Products

Comment: Requirement of CB to report listing data to EPA

Rationale: An option should be maintained to allow the listee to directly submit data to the EPA as a more economic option.

Suggested Change (or Language): not supplied

Topic: 6.5 - Reporting WaterSense Labeled Products

Comment: Requirement of CB to report previously listed data to EPA at each listing interval

Rationale: Only the newest models to be listed should be necessary for reporting at each listing interval.

Suggested Change (or Language): not supplied

Commenter: Dave Bracciano/Susana Alvarado
Affiliation: Tampa Bay Water
Comment Date: July 25, 2011

Topic: Draft Revisions to the WaterSense® Product Certification System

Comment:

Sections 6.6.1 & 6.6.2

Tampa Bay Water has reviewed the changes in the Draft Revisions to the WaterSense Product Certification System. It appears the changes:

- Increase the testing requirement percentages from 1 unit of each one model certified per manufacturer to 15% of all Licensed Certifying Bodies certified products
- Testing requirements are increased up to 50% to cover any discrepancies with sample size, product reliability, and product availability

Both of these changes enhance product reliability, consumer satisfaction, and product placement issues) while making the testing more cost effective and quicker (instead of a 5 year recertification period).

Section 6.7 & Discussion of Revisions to the Product Notification Process

Furthermore, the streamlining of the product notification process:

- Allows for information to remain accurate as it is being sent from manufacturers to the Licensed Certifying Bodies' and finally to the EPA.

This comprehensive process allows for the Licensed Certifying Bodies to have a direct responsibility of relaying correct information to the EPA, decreasing the incidences of Watersense labeling misuse in the future.

Rationale: See comment above (N/A)

Suggested Change (or Language): N/A

Commenter: Len Swatkowski
Affiliation: Plumbing Manufacturers International
Comment Date: July 25, 2011

Topic: Section 6.5 – Reporting WaterSense Labeled Products to EPA

Comment: EPA is now asking that all listings to WaterSense be performed by CB's in the program instead of by each manufacturer. The submittals require all previous listing to be added to each subsequent submittal.

Rationale: This adds complexity and confusion to a newer certification system and should be eliminated

Suggested Change (or Language): When submitting a new listing, only the new basic models should be sent to the EPA. Eliminate the requirement in the template that requires ALL listing be added to new submissions.

Topic: Section 6.6.2 – Market Surveillance of Products

Comment: Currently, when samples are selected during audit, manufacturer's can do the testing provided it is witnessed by CB or independent lab representative with the CB or the lab issuing the report. EPA is now asking that annual audit testing of WaterSense listed products be performed by CB's in the program instead of by each manufacturer. There should be allowances for more economic options.

Rationale: This will add significant cost to the value proposition of the voluntary WaterSense mark in the form of shipping and scrapping of product samples.

Suggested Change (or Language): Make the audit testing optional between manufacturers doing witness testing, CB laboratories and independent laboratories.

Topic: Section 6.6.2 – Market Surveillance of Products

Comment: While the EPA is changing the process of audit samples to those "obtained either from the retail outlet/distribution center or project site where the product is being sold or used, or from the manufacturer's warehouse site", it further specifies that "samples may be selected from off the line only when it is not feasible to obtain products from the retail outlet/distribution center or from the manufacturer's warehouse. Where purchase of the product is required, the manufacturer shall pay for the product." There should be allowances for more economic options.

Rationale:

The cost of paying for retail on a product already paid for by a manufacturer can be very high given the magnitude of thousands of sample needed to comply with the annual audit requirements.

Suggested Change (or Language): CB's should be allowed to obtain samples from the most cost effective source, which may include gathering random samples off of manufacturers assembly lines, and not be held to any specific source.

Topic: Section 6.6.2 – Market Surveillance of Products

Comment: The requirement to audit 15% of all CB listed base-model products for each model type will place another significant economic burden on the WaterSense program. Energy Star requires 10% for annual audits.

Rationale: There is no reason to deviate from the 10% audit requirement which, in itself, will place a significant additional test burden to the capacity issues already inherent in the WaterSense CB's.

Suggested Change (or Language): Change the 15% requirement to 10% and provide clarification to confirm that the audits will be performed on all CB listed base-model products.

This last request is based on conversations with Stephanie Tanner (EPA) that the 15% refers to all the basic products certified by the Certifying Body in each category and needs to be clarified by the EPA.

Topic: Open Discussion during the 19July11 WaterSense Call

Comment: There is inconsistency of the numbers reported for WaterSense in terms of decimal versus fraction and implied level of accuracy in the number of decimal places reported.

Rationale: This adds confusion and variability in the reported numbers and needs to be clarified.

Suggested Change (or Language): Please clarify the type and implied accuracy of the reported performance number for the WaterSense program.

Commenter: Shabbir Rawalpindiwala

Affiliation: Kohler Co.

Comment Date: July 25, 2011

Topic: Section 5.4.2.2.3

Comment: We are very much appreciative for allowing manufacturer's laboratory to do the testing provided the lab is in compliance to ISO/IEC 17025 and is under the supervision of the certifying body.

Rationale: This will allow manufacturers to introduce WaterSense products quickly and will give consumers more choice.

Suggested Change (or Language): N/A

Topic: Section 6.5

Comment: Presently we have the choice of applying ourselves directly to EPA after our products are listed with the CB or authorizing CB to apply on our behalf. Now the proposed revised procedures requires manufacturers' to apply to the certifying body who in turn will apply to EPA on manufacturer's behalf. This is burdensome and a choice should be offered.

Rationale: This will increase the cost of listing with the CB and chances of mistakes occurring.

Suggested Change (or Language): Suggest an option be given as presently done. Also only the new basic models should be required in the application and not previously listed products every time a new application is made.

Topic: Section 6.6.2 & 6.6.2.1

Comment: It is being proposed that CB must do annual market surveillance by selecting 15% of all models for each relevant product type certified. These samples can be selected from retail outlet/distribution center or project site where the product is being sold or used, or from the mfr's warehouse. Samples can also be selected from off the line when it is not feasible to obtain them from the previously mentioned sources. If samples are purchased from retail outlets, mfr's will have to pay the cost.

The above mentioned samples can only be tested by CB's internal resources or by an independent testing lab. No witnessed testing at mfr's lab is allowed.

This is extremely cost prohibitive. It will cost large amount of money to ship, breakage during shipping and then re-shipping of that sample(s) and most importantly the

environmental impact (considering EPA's charter is to protect the environment) due to carbon footprint, culling the samples and overflow of the landfill.

Rationale: As mentioned above, most importantly the environmental impact and the financial cost will result due to this enforcement. For example, if a mfr. had 100 models listed in the four categories (toilets, urinals/flushometers, lavatory faucets and showerheads), we will have to ship 30 toilets, 15 urinals/flushometers, 60 lavatory faucets and 60 showerheads to the testing lab (based on 2, 1, 4 and 4 samples per model respectively as required by the respective WaterSense specifications). Accordingly, the cost of shipping and testing will be about US \$50,025.00 per year for Kohler Co. which is quite expensive. Who will pay for this in the end? Consumer will pay and if the cost becomes unbearable, manufacturers may decide not to participate.

Suggested Change (or Language): We suggest that this kind of audit not be required and should be left up to the CB to determine how to ensure products continue to be in compliance and allow witness testing.

Commenter: Shirley Dewi
Affiliation: IAPMO R&T
Comment Date: July 25, 2011

Topic: 4.2 Application (1st sentence)

Comment: Editorial only.

Rationale: Clarification.

Suggested Change (or Language): Accreditation bodies intending to accredit product certifying bodies for WaterSense ~~should~~ **shall** apply to EPA for approval via an application letter.

Topic: 5.2 Accreditation (3rd sentence on the 3rd paragraph)

Comment: The third sentence on the 3rd paragraph stated, “The licensed certifying body is only required to update its scope of accreditation related to a specific product category when major changes to the test methods identified in the relevant WaterSense product specifications are made, as indicated by EPA.” The underlined items are not very clear. Please clarify of what “update its scope of accreditation” meant. Also, please also clarify of what constitutes “major changes”.

Rationale: Clarification.

Suggested Change (or Language): --

Topic: 5.3 Licensing (Last Sentence of the 1st paragraph)

Comment: Editorial only.

Rationale: The last sentence does not appear to be a complete sentence.

Suggested Change (or Language): This licensing agreement shall provide the conditions for authorizing the use of the WaterSense label to manufacturers **of certified products**.

Topic: 5.3 Licensing (3rd paragraph)

Comment: The third paragraph stated, “EPA reserves the right to terminate the licensing agreement for any certifying body that does not continue to meet or maintain the requirements for accreditation as outlined in this product certification system.” Does EPA have a procedure for determining whether the licensing certifying body is meeting or not meeting the requirements (i.e. Accreditation body’s audit results, etc.)?

Rationale: Clarification.

Suggested Change (or Language): --

Topic: 5.3.1.1 Transitional Approval Eligibility (4th bullet point)

Comment: The 4th bullet point seems to be confusing because it requires the certification body to be competent to perform testing.

Rationale: Clarification.

Suggested Change (or Language): --

Topic: 5.3.1.2 Transitional Approval Requirements (3rd bullet point)

Comment: The 3rd bullet point is confusing because it requires Certification Body's contact person to be "in charge of product testing".

Rationale: Clarification.

Suggested Change (or Language): The name and contact information for the responsible official that will be in charge of ~~product testing~~ for certification.

Topic: 5.4 Evaluation Resources

Comment: The title of this section needs clarification.

Rationale: Clarification.

Suggested Change (or Language): Testing and Evaluation Resources

Topic: 5.4.1 Internal Resources

Comment: Accreditation to ISO/IEC 17025 is for testing, not evaluation. Therefore, the reference to evaluation activities is incorrect.

Rationale: Editorial – incorrect

Suggested Change (or Language): If the licensed certifying body performs ~~evaluation~~ testing activities with its own resources, it shall ensure that those resources are accredited

by an International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Agreement (MRA) Signatory to ISO/IEC 17025...

Topic: 5.4.2.1 Independent Testing Laboratory

Comment: Suggest EPA to consider removing ISO/IEC 17025 accreditation requirement for independent testing laboratories to make it consistent with the requirements of ISO/IEC Guide 65 on the certification bodies.

Rationale: As required in the ISO/IEC Guide 65, the compliance of the testing laboratories and inspection bodies has been addressed on clause 4.3 as follows:

“The certification body shall take all steps necessary to evaluate conformance with the relevant product standards according to the requirements of specific product certification system (see clause 3). The certification body shall specify the relevant standards or parts thereof and any other requirements such as sampling, testing and inspection requirements which form the basis for the applicable certification system. **In conducting its certification operations, the certification body shall observe, as appropriate, the requirements for the suitability and competence of body(ies) or person(s) carrying out testing, inspection and certification/registration as specified in ISO/IEC Guides 25, 39, and 62.**”

Please note that ISO/IEC Guide 25 has been superseded by ISO/IEC 17025, ISO/IEC Guide 39 has been superseded by ISO/IEC 17020, and ISO/IEC Guide 62 has been superseded by ISO/IEC 17021.

Accreditation bodies such as ANSI, A2LA, or SCC enforce the above requirements to all ISO/IEC Guide 65 certification bodies during their accreditation process. This is one of the fundamental requirements for certification body to obtain accreditation to ISO/IEC Guide 65. Since it is clearly a responsibility of accredited certification body to assure the compliance of testing laboratories and inspection bodies to the aforementioned requirements, we believe that it is not necessary to further require the laboratories be additionally accredited to ISO/IEC 17025 and inspection bodies to ISO/IEC 17020. The proof of such compliance has been part of the requirements that an accredited certification body must demonstrate during their routine accreditation audits.

Suggested Change (or Language): Licensed certifying bodies may allow an independent testing laboratory to conduct evaluation activities, provided **that the licensed certifying body evaluates** the laboratory’s **competency** is accredited by an ILAC MRA Signatory to ISO/IEC 17025 ~~with a scope of accreditation to include~~ **and** the relevant WaterSense product specification.

Topic: 5.4.2.2.3 Supervised Manufacturer’s Testing Laboratory Programs

Comment: The 2nd bullet point seems to imply that in order to enroll in the SMTL program, the manufacturer's in-house testing laboratory must first enroll in the WMTL program. Please clarify the intent of the 2nd bullet point.

Rationale: Clarification.

Suggested Change (or Language): --

Topic: 6.1 Application (2nd paragraph)

Comment: Does EPA allow notification template be a part of the licensed certification body's application packet?

Rationale: Clarification

Suggested Change (or Language): --

Topic: 6.2.4.3 Evaluation Report (1st sentence)

Comment: Minor revision to the sentence for editorial purposes only.

Rationale: The remainder sentence is unnecessary as it is implied and explained on the subsequent texts on this section.

Suggested Change (or Language): The licensed certifying body shall inform the applicant ~~via a full report on the outcome of the initial evaluation, including product testing and, if applicable, assessment of production process.~~

Topic: 6.2.5 Licensed Certifying Body's WaterSense Labeled Product Listing (2nd sentence on the 1st paragraph)

Comment: The 2nd sentence on the first paragraph stated, "The listing shall contain at a minimum, all of the information collected as part of the application process and as included in the relevant product-specific notification template available on the WaterSense website." Based on the webinar, we understand this to mean that our listing must include all information collected on the notification template. The notification template has specific manufacturer contact information which we as a CB maintain as confidential. Please clarify if this information must appear on the CB listing.

Rationale: Clarification.

Suggested Change (or Language): --

Topic: 6.6.2 Market Surveillance of Products (2nd paragraph)

Comment: The 2nd paragraph indicated to select at least 15 percent of all models for each relevant product type certified. Because the number of certified products change regularly, it is unclear the basis of 15%. Therefore, please provide clarification for the following:

- What is the basis of 15% sample selection?
- It is our understanding that we are to select 15% of all products listed under a given product category, and not 15% from each manufacturer. Please confirm.
- How would EPA address grouping/family of models? Does a family of models counted as 1?
- How would EPA address private labeler? Does private label counted?

Rationale: Clarification.

Suggested Change (or Language): --

Topic: 6.8 Suspension of the Use of the WaterSense Label on Products (2nd paragraph)

Comment: On the 2nd paragraph, EPA requested CB to notify EPA within 30 days of WaterSense label suspension and reinstatement. For clarification purposes, EPA should include the contact/e-mail where CB should send the notification.

Rationale: Clarification

Suggested Change (or Language): --

Commenter: Len Swatkowski
Affiliation: Plumbing Manufacturers International
Comment Date: 29 July 2011

Topic: Section 6.6.2 – Market Surveillance of Products

Comment: Currently, when samples are selected during audit, manufacturer's can do the testing provided it is witnessed by the Certifying Body (CB) or independent lab.

EPA is now asking that annual audit testing of 15% per category for WaterSense listed products be performed by CB's or independent labs in the program instead of allowing witness testing by manufacturers.

Rationale:

There would be a severe economic burden on larger manufacturers in the form of testing cost, lost project time and scrap costs under this proposal. A more environmentally sound approach would be to continue to allow the option of CB or independent lab witness testing at manufacturers to avoid cost, shipping and timing impacts.

Also, larger manufacturers would bear a much higher economic burden of annual audit testing. The intent of the audit is to verify the integrity and validity of the data in the WaterSense program and limiting each manufacturer's annual audits to five per category would accomplish this.

Suggested Change (or Language): CB's should be allowed to test samples at the most cost effective location, which may include witness testing at manufacturers' laboratories, CB laboratories or independent laboratories.

It is in the interest of manufacturers to also ensure that products continue to comply. It should be left to the CB how to ensure continuous compliance. Manufacturers should have a maximum limit of five (5) products per category audited per year. With several companies having multiple categories, a successful annual audit of maximum five products per category should be confirmation of compliance.

Topic: 5.4.1 Internal Resources

Comment: The provisions of CB's for evaluation services have changed and could adversely affect costs of WaterSense listings.

Rationale: CB's should have more options for complying with the requirements for displaying competency for a WaterSense specification. While an independent, 3rd

party accreditation is one method of proof; by no means should it preclude additional alternatives for demonstrating proficiency. The program has achieved a high level of success over the past 5 years in its current state. Restricting the evaluation activities by its own resources to mandating independent accreditation will add an unnecessary cost burden. These additional costs will likely be added to manufacturers listing WaterSense products.

Suggested Change (or Language):

5.4.1 Internal Resources

If the licensed certifying body performs evaluation activities with its own resources, it shall ensure that those resources are **either**:

- accredited by an International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Agreement (MRA) Signatory to ISO/IEC 17025 with a scope of accreditation to include the relevant WaterSense product specification(s) and ensure that the personnel conducting the testing have the necessary competence and expertise,
- **trained on the test methods to be used in the WaterSense product specification or,**
- **participants in the EPA's test method and specification development process for the relevant WaterSense product specification.**

Topic: 5.4.2.1 Independent Testing Laboratories

Comment: The provisions for independent testing laboratories to conduct evaluation services (testing) could adversely affect costs and viability of continued WaterSense participation.

Rationale: Independent testing laboratories should have more options for complying with the requirements for displaying competency for a WaterSense specification. While an independent, 3rd party accreditation is one method of proof; by no means should it preclude additional alternatives for demonstrating proficiency. The program has achieved a high level of success over the past 5 years in its current state. Restricting the evaluation activities by its own resources to mandating independent accreditation will add an unnecessary cost burden. Additional accreditation may eliminate the smaller independent laboratories from the program. These additional costs will likely be added to manufacturers listing WaterSense products.

Furthermore, independent testing laboratories must currently undergo annual auditing by the certification body it is accredited by for showing compliance to ISO/IEC 17025.

Suggested Change (or Language):

5.4.2.1 Independent Testing Laboratories

Licensed certifying bodies may allow an independent testing laboratory to conduct evaluation activities, provided the laboratory is **either:**

- accredited by an ILAC MRA Signatory to ISO/IEC 17025 with a scope of accreditation to include the relevant WaterSense product specification,
- **trained on the test methods to be used in the WaterSense product specification as determined by the licensed certifying body or,**
- **a participant in the EPA's test method and specification development process for the relevant WaterSense product specification.**

Commenter: Nikki Jackson
Affiliation: American National Standards Institute
Comment Date: August 1, 2011

Topic: 1

5.4.2.2.2 Witnessed Manufacturer's Testing Laboratory Programs

When operating a WMTL, the licensed certifying body shall:

- Ensure that all tests are carried out in accordance with the relevant Water Sense product specification.

Comment:

Add additional bullet for following.

- Ensure that applicable requirement of ISO IEC 17025 are compiled and a full test program witness schedule is agreed upon

Rationale:

The intent here is to avoid a situation where a test facility is not deemed fit to be used for witness testing unless specific verification statement is made by CB's witnessing STAFF. Also a partly witnessed test program may jeopardize the intent

Suggested Change (or Language):

Add additional bullet for following.

- Ensure that applicable requirement of ISO IEC 17025 are compiled
- A full test program as envisaged in the plan for certification activities(witness schedule as an example)is agreed upon

Topic: 2

5.4.2.2.3 Supervised Manufacturer's Testing Laboratory Programs

When operating a SMTL program, the licensed certifying body shall:

Comment:

Add additional bullet for following.

Ensure that resources (manpower, testing facility) are adequate for each test methods for each applicable w EPA Product Specification and other relevant standards, cross referred therein as a testing method

Rationale:

The intent here is to avoid a situation where a test facility has a new status (testing location moved to another location, equipment out of calibration/non-functional/inadequate, trained testing technicians left the organization and new personnel are yet to be trained and qualified to perform the test)

Suggested Change (or Language):

Add additional bullet for following.

Ensure that resources (manpower, testing facility) are adequate for each test methods for each applicable w EPA Product Specification and other relevant standards, cross referred therein as a testing method

Commenter: Al Dietemann
Affiliation: Seattle's Saving Water Partnership
Comment Date: August 15, 2011

Please see my attached revised comments. I regret overlooking part 6.6.2 during my review and earlier comments. It was unfortunate that others listening to the conference call didn't direct me to 6.6.2. Fortunately, Pete DeMarco pointed it out. I don't oppose OEM self certification as long as it is subject to well defined re-testing by EPA. If you have any questions please give me a call.

**Clarification Comments on
EPA WaterSense Product Certification System
Revised Draft 2.0 dated June 23, 2011**

Al Dietemann
Seattle's Saving Water Partnership
August 15, 2011

Thanks to Pete DeMarco of IAPMO for pointing my attention to part 6.6.2 Market Surveillance of Products. Many of the concerns I mentioned on the conference call and e-mail have been addressed in this overlooked section. The comments below modify my previous comments about adding a random selection component, however, a few remaining details deserve further clarification:

6.6.2 Second Paragraph

Annual market surveillance shall be conducted on at least 15 percent of all models for each relevant product type certified (e.g., tank-type toilets, lavatory faucets, flushing urinals, showerheads) by the licensed certifying body, taking into consideration products that have been recently subject to market surveillance. These models shall be randomly selected and shall include a representation of both original equipment manufacturer and private labeled products.

Comments:

- 1) Random market surveillance on 15 percent of the all models could result in a statistically small number of models never being re-tested, while many models could be re-tested multiple times and/or with high annual frequency. I suggest a modification (see changes to third paragraph below).
- 2) It is unclear exactly what the consideration will be: *"taking into consideration products that have been recently subject to market surveillance"*. This vague statement should be made clear. First, remove the term "products". I believe the paragraph refers to models, not products. It is a waste of lab and manufacturer resources to re-test models that have recently been re-tested, while ignoring models that have never been re-tested.

I suggest exempting models that have been re-tested less than 3 years from the date of random selection (see changes to third paragraph below)

- 3) The term “Randomly Selected” as used in 6.6.2 doesn’t need the qualification “and shall include ...”. If models are truly randomly selected, they should include all labeled models. Although unlikely, it is possible not to have representation of both OEM and private labeled MODELS for some WaterSense Products, particularly in new WaterSense model categories.

6.6.2 Third Paragraph

For up to 50 percent of the models chosen for annual market surveillance, EPA reserves the right to require the licensed certifying body to select models based on:

- *Product categories for which previous models have failed market surveillance.*
- *Preferred location, such as a retail outlet/distribution center.*
- *Referrals from third parties, such as consumers, consumer groups, or regulatory agencies regarding the accuracy of certifications.*
- *Models with high sales volumes, if this data is available to the licensed certifying body.*

Comments:

- 1) This paragraph is not clear. I suggest deleting it. If 15% of the models are randomly selected for surveillance, how will additional section criteria be added by EPA? I suggest clearing up this confusion by segregation of the re-testing sample.
 - a) 15% of all labeled models in each category shall be re-tested annually. This 15% will consist of two components.
 - b) 7.5% of all labeled models in each category shall be randomly selected for re-testing from all labeled models.
 - c) Up to 7.5% of all labeled models in each category may designated for re-testing by EPA based upon these criteria:
 - Product categories for which previous models have failed market surveillance.
 - Preferred location, such as a retail outlet/distribution center.
 - Referrals from third parties, such as consumers, consumer groups, or regulatory agencies regarding the accuracy of certifications.
 - Models with high sales volumes (see note below).
 - The oldest of the models not re-tested randomly in the past 3 or more years.

If fewer than 7.5% of all labeled models are designated by EPA based on the criteria above, the remaining number of models will be added to the random 7.5% drawing, to total 15% of all labeled models re-tested annually.

Notes: In the third paragraph:

- *Models with high sales volumes, if this data is available to the licensed certifying body.* Sales data may or may not be available to the licensed certifying body, but leaving it to them is not appropriate. EPA should designate for re-testing models having major

market share, since these are likely to have more impact to the WaterSense brand, should they fail testing, than models infrequently sold.

Commenter: Brandon Leister
Affiliation: San Antonio Water System
Comment Date: August 16, 2011

The WaterSense program has been gaining credibility since its infancy and consumers are becoming more comfortable with the brand label and the products it certifies. As a WaterSense partner, the Conservation Department of the San Antonio Water System, has placed a high value on what the program represents and has done for water conservation. For, example we utilized this credibility to incorporate minimum plumbing fixture standards into the plumbing section of our city ordinance in 2009, the certification standards have also changed the way we place and secure our plumbing fixture procurement bids and has given use the tools to showcase superior performing products to our customers.

Given our utilization of the WaterSense Program, our concern for the history, integrity and credibility of the program was only natural. Through a very well organized open forum process, EPA has regained our confidence and comfort level with this newly formulated direction of certification. With proper fail safe standards in place, the certification process can acknowledge many new product types, without detrimental funneling effects.

As the WaterSense Program moves into its next phase, many challenges still exist. For example, the ongoing concern for flapper style fixtures to maintain water savings over time, maintaining all WaterSense labeled products as premium and superior, enforcing questionable test results as well as being able to slide the scale of efficiency and performance to an even higher level and possibly even introducing a Tiered system for higher performing products.

San Antonio Water System will continue to find ways to incorporate the program standards set forth by this program and values WaterSense as a water conservation planning tool for the utility.

Please, let me know if you need or desire any additional information.