

Draft Revised WaterSense® Product Certification System

1.0 INTRODUCTION

WaterSense is a partnership program sponsored by the U.S. Environmental Protection Agency (EPA) created to protect the future of our nation's water supply by promoting and enhancing the market for water-efficient products and programs. To achieve the mission of the WaterSense program, EPA establishes partnerships with interested stakeholders, such as product manufacturers, retailers, and water utilities. EPA provides and maintains the WaterSense brand and develops national specifications for water-efficient products and programs.

EPA requires all products bearing the WaterSense label to be assessed for conformance to the relevant WaterSense product specification by an accredited third-party product certifying body. EPA will license accredited product certifying bodies to certify that products conform to applicable specifications and to authorize the use of the WaterSense label in conjunction with the certified product.

The international criteria for the accreditation of product certifying bodies operating product certification programs for tangible products, processes, and services are detailed in International Organization for Standardization/International Electrotechnical Commission (ISO/IEC) Guide 65, *General requirements for bodies operating product certification systems* and the International Accreditation Forum (IAF) *Guidance on the Application of ISO/IEC Guide 65*.

This *WaterSense Product Certification System* (product certification system) specifies the minimum requirements that EPA-licensed product certifying bodies (licensed certifying bodies) shall observe when operating third-party certifications of product conformance to WaterSense product specifications and authorizing the use of the WaterSense label. It provides specific requirements in the application of ISO/IEC Guide 65 in order to satisfy the requirements implicit in the certification of products for WaterSense and provides the basis for consistent application of WaterSense certification by licensed certifying bodies.

This document, in respect to the certification and labeling of products for WaterSense, shall be read in conjunction with ISO/IEC Guide 65 and IAF *Guidance on the Application of ISO/IEC Guide 65*.

The requirements of this product certification system are applicable to EPA-approved accreditation bodies (approved accreditation bodies), licensed certifying bodies, and the manufacturers that are obtaining product certification. Figure 2 (at the end of this document) portrays the key elements of this product certification process and the relationships between EPA, the manufacturer, the licensed certifying body, and the accreditation organization.

Certification by a licensed certifying body is not a statement that it guarantees the efficiency and performance of a WaterSense labeled product. It is also not a guarantee that all of the aspects of a relevant WaterSense product specification are being met or will continue to be met at all times. The certification and labeling of a product for WaterSense is a statement that the manufacturer's products have been demonstrated to conform to the relevant WaterSense product specification, and that the validation and verification of conformance to the WaterSense

product specification has been evaluated and determined to meet the necessary requirements. It is also a statement of the manufacturer's commitment to:

- Manufacture water-efficient products in accordance with relevant WaterSense product specifications.
- Comply with requirements of the *Manufacturer Partnership Agreement*, *WaterSense Program Guidelines*, and *Guidelines for Using WaterSense Program Marks*.

2.0 EFFECTIVE DATE

Version 2.0 of this product certification system shall be effective on [TBD].

Certifying bodies currently licensed by EPA to certify products in accordance with Version 1.0 of this product certification system shall begin complying with Version 2.0 of this product certification system by no later than [date TBD, based on one year from the established effective date]. EPA will hold in full force and effect the existing licensing agreement between the certifying body and EPA; however, such licensed certifying bodies shall obtain accreditation to Version 2.0 of this product certification system from an approved accreditation body within one year of the effective date.

After the effective date, any new product certifying bodies shall obtain accreditation to Version 2.0 of this product certification system and become licensed by EPA to certify products for the WaterSense program. Upon accreditation in accordance with Version 2.0 of this product certification system, certifying bodies shall email a copy of the accreditation certificate to EPA at watersense@epa.gov.

3.0 TECHNICAL REQUIREMENTS

3.1 Scope

This product certification system applies to the certification of product conformance to the technical requirements of relevant WaterSense product specifications and includes all processes and services used to make a final product.

EPA develops WaterSense product specifications for various products or product categories. Specifications detail the attributes products require to bear the WaterSense label. Current WaterSense product specifications are available in the compendium of WaterSense product specifications, found on the WaterSense website. EPA may modify the compendium as necessary to incorporate any additional or revised WaterSense product specifications as well as any technical clarifications issued for existing WaterSense product specifications.

WaterSense product specifications, technical clarifications, this product certification system, the *WaterSense Program Guidelines*, and the *Guidelines for Using Program WaterSense Marks* provide the purpose and the minimum requirements for certification by a licensed certifying body.

3.2 References and Definitions

The following referenced documents are indispensable for the application of this product certification system. Definitions within these documents are included by reference. Undated references indicate that the latest edition of the referenced document applies.

WaterSense product specifications and technical clarifications developed and maintained by EPA and contained in the online compendium.

WaterSense Program Guidelines developed and maintained by EPA.

Manufacturer Partnership Agreement between EPA and the manufacturer of WaterSense labeled products.

Retailer/Distributor Partnership Agreement between EPA and the retailer or distributor of WaterSense labeled products that are privately labeled, as described in the *WaterSense Program Guidelines*.

Guidelines for Using WaterSense Program Marks developed and maintained by EPA.

ISO/IEC Guide 65, *General requirements for bodies operating product certification systems*. Note: This reference will be superseded by ISO/IEC 17065 once published.

ISO/IEC 17000, *Conformity assessment – Vocabulary and general principles*.

ISO/IEC 17011, *Conformity assessment – General requirements for accreditation bodies accrediting conformity assessment bodies*.

ISO/IEC 17025, *General requirements for the competence of calibration and testing laboratories*.

ISO/IEC 17043, *Conformity assessment – General requirements for proficiency testing*.

IAF Guidance on the Application of ISO/IEC Guide 65.

Other definitions applicable to this product certification system include:

Independent Testing Laboratory: A laboratory independent of manufacturing interests that has been recognized by the licensed certifying body to test specified categories of products and issue test reports.

Supervised Manufacturers Testing Laboratory (SMTL): A manufacturer's laboratory being used by the licensed certifying body to conduct agreed upon testing within categories of products for which the manufacturer has design and production responsibility, generally with licensed certifying body supervision of tests and quality processes. All product testing done as part of the product's certification are supervised by a competent member of the licensed certifying body's staff. Supervision focuses on

review and auditing of the laboratory procedures, including periodic witnessing of product testing.

Witnessed Manufacturer's Testing Laboratory (WMTL): A manufacturer's laboratory being used for 100 percent witnessed testing by the licensed certifying body. All product testing done as part of the product's certification are witnessed by a competent member of the licensed certifying body's staff.

4.0 THE ACCREDITATION BODY

4.1 Requirements

Accreditation of product certifying bodies in accordance with this product certification system shall be offered by an EPA-approved, U.S.-domiciled accreditation body that:

- Operates in accordance with the requirements of ISO/IEC 17011, *General requirements for accreditation bodies accrediting conformity assessment bodies*.
- Offers accreditation services to ISO/IEC Guide 65 and the IAF Guidance on the Application of ISO/IEC Guide 65.
- Is an IAF Multilateral Recognition Agreement (MLA) signatory for products.
- Has procedures for recognizing and accepting accreditations for licensed certifying bodies previously accredited by another EPA approved accreditation body. This shall include a process for disclosing these procedures and associated costs to certifying bodies at the time of application or upon any subsequent changes to the procedures.

4.2 Application

Accreditation bodies intending to accredit product certifying bodies for WaterSense should apply to EPA for approval via an application letter. The applicant shall demonstrate in its application that it has met the criteria outlined in Section 4.1 and shall provide proof of its IAF MLA for products. EPA will enter into a Memorandum of Understanding (MOU) with the approved accreditation body, which will describe the roles and responsibilities of both parties under these final accreditation body requirements.

5.0 THE PRODUCT CERTIFYING BODY

5.1 Requirements

Certification of products in accordance with this product certification system shall be offered by a certifying body that:

- Is accredited and licensed in accordance with Sections 5.2 and 5.3, respectively.
- Has policies and procedures in place to comply with the evaluation resources requirements in accordance with Section 5.4.
- Is responsible for the impartiality of its certification activities and does not allow commercial, financial, or other pressures to compromise its impartiality.
- Identifies risks to its impartiality on an ongoing basis and demonstrates how it eliminates or minimizes such risks to an acceptable level.

- Does not design, manufacture, install, distribute, maintain, or act as an advocate for the certified product in the marketplace, or provide consultancy to its clients related to the products it certifies.¹

5.2 Accreditation

Product certifying bodies shall be accredited in accordance with ISO/IEC Guide 65 and IAF Guidance on the Application of ISO/IEC Guide 65 to operate this product certification system and certify products to the relevant WaterSense product specifications contained in the compendium posted online.

The accreditation shall be issued by an approved accreditation body. A list of approved accreditation bodies that are authorized to provide accreditation services in accordance with this product certification system is available on the WaterSense website.

Product certifying bodies can seek accreditation for any or all of the WaterSense product specifications contained in the online compendium. The product certifying body shall have listed in its scope of accreditation the specific WaterSense product specifications relevant to the products it intends to certify. 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.

In the event an accreditation body loses EPA approval to accredit product certifying bodies for WaterSense, EPA will notify the affected licensed certifying bodies and will provide them with a transition period of one year (from the termination date of the approval of its accreditation body) to seek and obtain accreditation by another currently approved accreditation body and to reapply to EPA to certify products for WaterSense. After this transition period, if the licensed certifying body does not obtain accreditation by an approved accreditation body and reapply to EPA for licensure, EPA may terminate the certifying body's licensing agreement.

The licensed certifying body shall have procedures in place to accept the certification for a manufacturer's products that were previously certified by another EPA licensed certifying body. This should generally include the acceptance of all data and information generated from the certification, so as to reduce or eliminate requirements for product reevaluation. This acceptance is contingent upon the manufacturer's good standing with its previous licensed certifying body and its licensed certifying body's loss of accreditation as a result of its accreditation body losing its status as an EPA approved accreditation body.

5.3 Licensing

The product certifying body shall sign a licensing agreement with EPA after receiving accreditation to certify and label products for WaterSense but prior to issuing any authorization to use the WaterSense label. This shall include a separate licensing agreement amendment identifying each product specification for which it is accredited and is seeking licensure to

¹ This requirement also applies to any part of the licensed certifying body's same legal entity and any entities under the licensed certifying body's control.

certify.² This licensing agreement shall provide the conditions for authorizing the use of the WaterSense label to manufacturers.

As part of the responsibilities for certifying products and authorizing the use of the WaterSense label, the licensed certifying body shall allow EPA or its agents to accompany the approved accreditation body on any routine or follow-up assessments of the licensed certifying body's accreditation, including any testing laboratories, as it relates to the WaterSense program.

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.

5.3.1 Transitional Approval

As a part of the process for obtaining accreditation to certify specific products for the WaterSense program, interested product certifying bodies may seek transitional approval and licensing from EPA if they wish to certify products to the relevant WaterSense product specifications. EPA will offer this transitional approval initially as final product specifications are released and prior to the product certifying body's ability to obtain accreditation and the appropriate scope extension to certify the relevant products for WaterSense, as required in Section 5.2 of this product certification system.

5.3.1.1 Transitional Approval Eligibility

In order to be eligible to certify products under this transitional approval process, product certifying bodies shall:

- Be currently accredited and licensed to certify products in accordance with this product certification system.
- Use only those test facilities that demonstrate compliance to ISO/IEC 17025 for an existing WaterSense product specification.
- Comply with the requirements of the *Guidelines for Using WaterSense Program Marks*.
- Demonstrate competence to perform testing by one of three methods:
 - Provide proof of an existing accreditation for the test methods used in the relevant WaterSense product specification.
 - Attend training on the test methods to be used in the WaterSense product specification.
 - Participate in the EPA's test method and specification development process for the relevant WaterSense product specification.

5.3.1.2 Transitional Approval Requirements

Upon EPA's written notification that the transitional approval and licensing for the relevant

² Copies of licensing agreements and licensing agreement amendments may be requested from EPA by contacting the WaterSense Helpline at watersense@epa.gov or (866) WTR-SENS (987-7367).

WaterSense product specification is available, interested and qualified product certifying bodies may submit an application letter to EPA that includes appropriate supporting information as follows:

- Documentation of its application to the appropriate accreditation body for a scope extension to include the relevant WaterSense product specification.
- A declaration of competence (the specific components of this declaration will be identified by EPA for each relevant product specification).
- The name and contact information for the responsible official that will be in charge of product testing (this should be the same point of contact that will be listed on the WaterSense website).
- A signed a licensing agreement amendment identifying the relevant WaterSense product specification to which they wish to certify products.³

5.3.1.3 EPA Transitional Approval and Licensing

EPA will notify product certifying bodies that are approved under this transitional process and will sign and return the executed licensing agreement amendment signifying the product certifying body's ability to begin certifying products to the relevant product specification. This transitional process will remain in effect for a period of time, specified by EPA, from the date EPA opens the transitional approval and licensing process for a specific product category, or until the certifying body obtains and submits to EPA documentation of the appropriate scope extension from its accreditation body for the relevant WaterSense product specification, whichever occurs first.

Once the licensed certifying body submits to EPA documentation of the appropriate scope extension from its accreditation body for the relevant WaterSense product specification, EPA will remove the transitional status from the certifying body's records and the certifying body will continue to be eligible to offer certifications for the relevant product as outlined in this product certification system. The existing licensing agreement amendment signed under the transitional approval will remain in full force and effect.

5.3.1.4 Conditions for Transitional Licensing Termination

EPA reserves the right to terminate the licensing agreement for any certifying body that is approved and licensed under this transitional process, but that does not obtain the appropriate scope extension from its accreditation body for the relevant WaterSense product specification within the timeframe specified.

5.3.1.5 Eligibility of Product Certifying Bodies Not Meeting Transitional Requirements

At any time, any product certifying body that wishes to certify products to a WaterSense product specification, but that does not meet the requirements for transitional approval and licensing, may still apply for licensure from EPA once they have obtained accreditation and the

³ Copies of the licensing agreement may be requested from EPA by contacting the WaterSense Helpline at watersense@epa.gov or (866) WTR-SENS (987-7367).

appropriate scope extension from an approved accreditation body for the relevant WaterSense product specification, as outlined in Section 5.2 of this product certification system.

5.4 Evaluation Resources

Once accredited and licensed, the licensed certifying body shall determine the means it will use to generate and/or accept test data. All resources used to generate test data shall meet the requirements outlined in this section. In addition, all test reports generated shall include the following statement:

"I understand that intentionally submitting false information to the U.S. government or its agent is a criminal violation of the False Statements Act, Title 18 U.S.C. section 1001."

5.4.1 Internal Resources

If the licensed certifying body performs evaluation 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 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.

5.4.2 External Resources (Outsourcing)⁴

When using an external resource to perform evaluation activities, the licensed certifying body shall:

- Assure that the evaluation activities are managed in a manner that provides confidence in the results and that records are available to justify such confidence.
- Have a legally binding contract with the external resource, including requirements for maintaining confidentiality and avoiding conflicts of interest.
- Take responsibility for all evaluation activities outsourced.
- Ensure that the external resource that conducts the outsourced evaluation activities, and the personnel that it uses, conform to the applicable requirements of ISO/IEC Guide 65 and this product certification system.
- Ensure that the external resource and the personnel that it uses are not involved in such a way that could compromise the credibility of the results.
- Have documented policies and procedures for the qualifying, assessing, and monitoring of all external resources that provide outsourced evaluation activities.
- Require its external resources to participate in proficiency testing in accordance with ISO/IEC 17043, when deemed necessary by EPA or the accreditation body.
- Maintain a list of all external resources used and make this list available for the accreditation body to review.

5.4.2.1 Independent Testing Laboratories

⁴ For the purpose of this product certification system, the terms "outsourcing" and "subcontracting" are synonymous. Evaluation activities can be outsourced to other product certifying bodies.

Licensed certifying bodies may allow an independent testing laboratory to conduct evaluation activities, provided the laboratory is accredited by an ILAC MRA Signatory to ISO/IEC 17025 with a scope of accreditation to include the relevant WaterSense product specification.

5.4.2.2 First-Party Manufacturer Testing Laboratories

Licensed certifying bodies may operate a testing program to accept data from a manufacturer's first-party testing laboratory that participates in a WMTL or SMTL program that meets the requirements below.

5.4.2.2.1 General Requirements

The licensed certifying body shall ensure that all first-party manufacturer testing laboratories demonstrate compliance with ISO/IEC 17025 and the relevant WaterSense product specification.

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 WaterSense product specification.
- Witness and check all critical aspects of the test.
- Witness the final data acquisition.
- Ensure that the licensed certifying body personnel that witness the test have the necessary competence and expertise.
- Verify that all test reports provided by the WMTL record the name and address of the laboratory used and identify the manufacturer's qualified tester and the licensed certifying body's witness.

5.4.2.2.3 Supervised Manufacturer's Testing Laboratory Programs

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

- Have a contractual relationship with the manufacturer for at least two years.
- Document its confidence in the SMTL's quality processes. As the experience of the SMTL develops, and confidence in the management of the laboratory grows, the focus of supervision visits may shift gradually away from the witnessing of tests towards the examination and improvement of the overall quality process.
- Ensure that the manufacturer maintains responsibility for the product and its continued compliance with the relevant requirements contained in the relevant WaterSense product specification.
- Verify that the manufacturer's laboratory operates independently of other departments within the organization (e.g., production, marketing).
- Ensure that the staff employed in testing at the manufacturer's laboratory report to senior managers within the laboratory and are not subject to influence or conflict of interest outside of the laboratory management structure.
- Ensure that all tests are carried out in accordance with the relevant WaterSense product specification.

- Audit the SMTL's procedures on-site against the requirements of ISO/IEC 17025 and the applicable test method(s) at least once per year by, at a minimum.
 - Supervising product testing.
 - Reviewing relevant test reports in progress.
- Maintain records of the dates and elements of performed supervision, including what tests were observed, observations made, and advice provided to the SMTL during visits.
- Provide an independent review of all test reports prepared by the SMTL.
- Verify that all test reports provided by the SMTL record the name and address of the laboratory used and identify the manufacturer's qualified tester.

6.0 PRODUCT CERTIFICATION

6.1 Application

Manufacturers seeking WaterSense certification and the WaterSense label for their products shall apply directly to a product certifying body that is accredited for the relevant WaterSense product specification and is licensed by EPA. A list of licensed certifying bodies and the WaterSense product specifications for which they have been accredited to provide product certification services will be maintained on the WaterSense website. The application shall be accompanied by an executed copy of the Manufacturer's Partnership Agreement, signed by both EPA and the applicant manufacturer.

The application to the licensed certifying body shall contain, at a minimum, all of the information contained in the relevant product-specific notification template available on the WaterSense website. If possible, this information shall match the information that identifies the WaterSense labeled product on the product packaging or other point-of-purchase materials purchasers will see.

The application shall relate to the specific product or group of products for which certification is requested by the applicant. Once the application is accepted, the licensed certifying body shall provide the applicant with an estimate of the time required to conduct the initial evaluation, and any further information necessary for the application process.

For manufacturers with products already listed by a licensed certifying body, subsequent requests for listing of new models shall be made on separate forms.

6.1.1 Private Labeled/Rebranded Products

If at any time a manufacturer intends to have its products private labeled or rebranded under a separate organization/brand from the manufacturers, it shall notify the licensed certifying body. The licensed certifying body shall collect, at a minimum, information pertaining to the private labeler/private labeled product as indicated on the relevant product-specific notification template available on the WaterSense website. This shall match the information that identifies the WaterSense labeled product on the product packaging or other point-of-purchase materials purchasers will see. The licensed certifying body shall also verify that the private labeler has a partnership agreement signed by both EPA and the private labeler in place.

6.2 Initial Production Inspection and Product Testing

6.2.1 General

Upon confirmation of the acceptance of the application, the licensed certifying body shall make the necessary arrangements with the manufacturer for the initial evaluation in accordance with this product certification system.

The licensed certifying body is responsible for all activities included in the product certification system, including product sampling and testing, assessment of the production process or quality system, if applicable, and the surveillance of certified products.

6.2.2 Initial Production Inspection

The WaterSense program does not require an initial production inspection (i.e., audit of production process and quality management system). If the licensed certifying body has no prior certification relationship with the manufacturer in the specific product area, the licensed certifying body may conduct an initial production inspection at its own discretion to audit the manufacturer's capability for production and quality management. The purpose of this inspection is to give the licensed certifying body confidence that the manufacturer's system has the capability to mass produce products that conform to the technical requirements of the WaterSense product specification.

6.2.3 Initial Product Testing

6.2.3.1 Selection of Samples

Samples for testing and examination shall be selected in accordance with the requirements specified in the relevant WaterSense product specification and this product certification system.

The licensed certifying body shall determine the appropriate method for the selection of samples of products for testing that are representative of the model to be certified and made using components and subassemblies identical to those used in production. The samples selected shall be made from production tools and assembled using methods established for the production run.

6.2.3.2 Conduct of Initial Testing

The initial testing shall be carried out in accordance with the relevant WaterSense product specification and with this product certification system. The licensed certifying body shall only use evaluation resources that comply with the requirements outlined in Section 5.4.

6.2.4 Product Evaluation

6.2.4.1 Preparation for Evaluation

Prior to initiating product testing or a production inspection, if applicable, the licensed certifying body shall complete a comprehensive review of quality management documentation and product literature and schematics to ensure that there is substantiated evidence to show that the product is manufactured in accordance with the relevant WaterSense product specification, and that a proper production system and quality management system are established. In addition, in preparation for the evaluation, the licensed certifying body shall verify that the manufacturer's application was completed in accordance with Section 6.1, including the availability of partnership agreements signed by both EPA and the applicant manufacturer and any private labelers.

6.2.4.2 Evaluation

The licensed certifying body shall carry out the product evaluation by determining if the evaluation criteria are satisfactorily met and that the results of the initial product testing meet the requirements of this product certification system and the relevant WaterSense product specification. If an initial production inspection is conducted, the licensed certifying body may also use in the certification decision the information developed during the initial production inspection.

6.2.4.3 Evaluation Report

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. If the licensed certifying body is not satisfied that all of the requirements have been fulfilled, it shall inform the manufacturer of the aspects for which it does not comply. If the manufacturer shows that corrective action has been taken to meet the requirements within a time limit specified by the licensed certifying body in the evaluation report, the licensed certifying body shall repeat only the necessary aspects of the initial evaluation. It is up to the discretion of the licensed certifying body to determine whether a repeat of the assessment is necessary for subsequent submittals of the same product.

6.2.5 Licensed Certifying Body's WaterSense Labeled Product Listing

As part of the responsibilities for certifying products and authorizing the use of the WaterSense label, the licensed certifying body shall maintain on its website a WaterSense labeled product listing for each manufacturer, which shall only include WaterSense labeled products. 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. In addition, for products that have prefixes or suffixes that can be added to a base model number to denote variations in color, finish, or other non-performance related attributes, the licensed certifying body shall include a key or legend on its WaterSense labeled product listing. This key or legend shall define what the identified prefixes and suffixes mean. EPA will utilize the licensed certifying body's WaterSense labeled product listing to verify the information that is included on the WaterSense labeled product Web registry.

If separate listings are necessary for the manufacturer and the private labeler(s), the licensed certifying body shall keep a record of the linkage between the listings and provide the cross-

referenced list of brand names and model numbers to EPA upon request. This information will be kept confidential if requested by the licensed certifying body.

6.2.6 Agreement Between Licensed Certifying Body and Manufacturer

When the certification decision and report has been made, the licensed certifying body shall provide a certification decision to the manufacturer and authorize the use of the WaterSense label in conjunction with that certified product, if applicable. The manufacturer and the licensed certifying body shall enter into a licensing agreement, which shall outline the terms and conditions for certification and authorization to use the WaterSense label in accordance with the relevant WaterSense product specification, this product certification system, and the *Guidelines for Using WaterSense Program Marks*.

The licensed certifying body shall adhere to the following conditions for issuing the certification and authorizing the use of the WaterSense label:

- Verify that the manufacturer and any private labelers have in place a partnership agreement signed by both EPA and the manufacturer/private labelers.
- Ensure that the manufacturer and private labelers of a WaterSense labeled product abides by the policies outlined in the *Guidelines for Using WaterSense Program Marks*.

As part of the agreement between the licensed certifying body and the manufacturer, the manufacturer shall maintain responsibility for product certification, including submitting the product for certification to a licensed certifying body, receiving authorization to use the WaterSense label, and adhering to any ongoing surveillance required by the licensed certifying body. Upon notice of certification, the manufacturer and any private labelers listed may both be authorized to use the WaterSense label under the original manufacturer's agreement with the licensed certifying body. The manufacturer is responsible for ensuring the label is used properly in accordance with the *Guidelines for Using WaterSense Program Marks*. In all cases, a WaterSense labeled product shall bear the name of a WaterSense partner that holds or is included on a licensed certifying body's WaterSense labeled product listing.

6.3 Authorization to Use the WaterSense Label

Upon licensure, EPA will provide to the licensed certifying body a copy of the WaterSense label it shall authorize manufacturers to use in conjunction with certified products. The label shall contain the licensed certifying body's registered name or official acronym, which will be formatted and centered directly beneath the WaterSense label. The identifier shall be legible and shall be no wider than the WaterSense label itself.

The licensed certifying body shall provide the appropriate WaterSense label artwork to the manufacturer of a certified product and shall ensure that the manufacturer applies and uses the WaterSense label in accordance with the *Guidelines for Using WaterSense Program Marks*. At a minimum, the licensed certifying body shall evaluate how the manufacturer and its private labelers intend to use the WaterSense label prior to its use on products in the marketplace. Use of the WaterSense label by a manufacturer is mandatory as described in the *Guidelines for Using WaterSense Program Marks*.

The manufacturer of a certified product shall have the right to publicize the fact that it has been authorized to apply the WaterSense label to its certified products.

6.4 Extending a Certification

Manufacturers shall apply to the licensed certifying body to obtain an extension of an existing certification for additional types or models of products or intended modifications to previously certified models. The licensed certifying body, based on engineering judgment, shall determine if the additional types or models of products are significantly different from the base model covered by the existing certification, to the extent that the modifications to the design would impact conformance to the relevant WaterSense product specification. Based on this determination, the licensed certifying body shall decide whether to require additional testing to the relevant WaterSense product specifications and/or an assessment of the manufacturer's production process or quality system.

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 WaterSense labeled products 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.

6.6 Surveillance

To ensure that products continue to conform to the relevant WaterSense product specifications and that manufacturers are properly using the WaterSense label, EPA requires licensed certifying bodies to conduct periodic production inspection and market surveillance of products as described below.

6.6.1 Periodic Production Inspection

The licensed certifying body shall, at a minimum, on an annual basis, audit the production process and quality management of each manufacturer of a certified product(s). The purpose of this audit shall be to:

- Verify that the manufacturer continues to operate production and quality management in a manner that will maintain a product's conformance with relevant WaterSense product specifications.
- Consider and take appropriate action where changes to the manufacturer's operations are made that may impact a product's conformance with relevant WaterSense product specifications.

6.6.2 Market Surveillance of Products

Except when the WaterSense product specification indicates otherwise, the licensed certifying body shall conduct annual market surveillance, including product retesting and surveillance of

the label use for the products it has certified. The licensed certifying body shall appoint an inspector to conduct market surveillance of products. Samples for market surveillance shall be 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. 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.

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.

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.

6.6.2.1 Product Retesting

All products selected for market surveillance shall be retested for conformance with the relevant WaterSense product specification in accordance with Section 6.2.2 of this product certification system. All retesting shall be done by a licensed certifying body's internal resources or by an independent testing laboratory as described in Sections 5.4.1 and 5.4.2.1, respectively. Use of a WMTL or SMTL is not permitted for product retesting.

6.6.2.2 Surveillance of Label Use

All products selected for market surveillance shall also be assessed for proper use of the WaterSense label on product packaging and in advertising materials, as described in the *Guidelines for Using WaterSense Program Marks*.

6.7 Misuse of the Certification or WaterSense Label

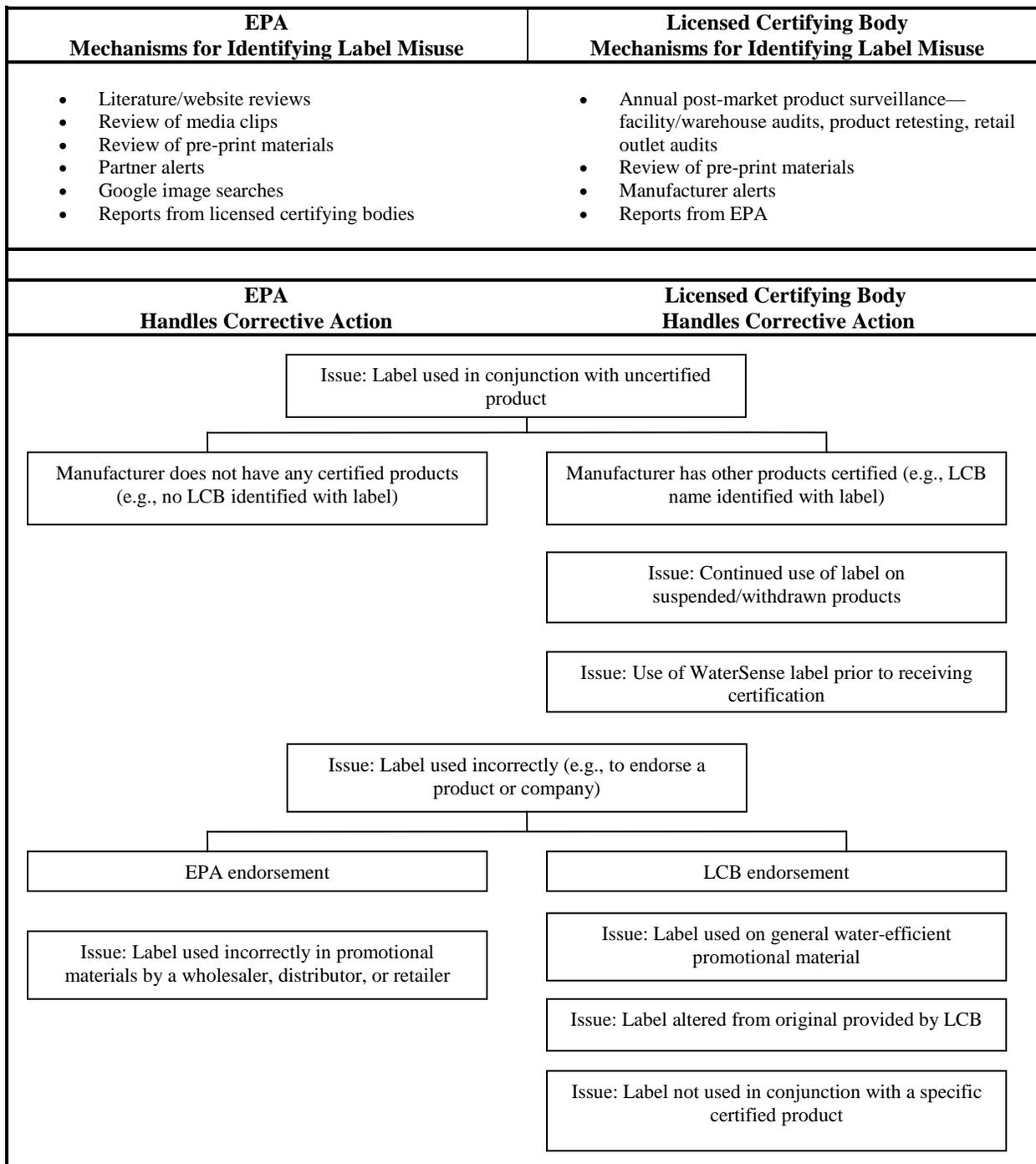
The licensed certifying body shall take appropriate action, which can include label suspension or withdrawal, when a product is found not to conform to the relevant WaterSense product specification or when a manufacturer of a product it has certified engages in unauthorized, incorrect, or misleading use of the certification or WaterSense label, whether the issue is discovered by the licensed certifying body or is brought to its attention by another party. Circumstances for unauthorized, incorrect, or misleading use of the certification or WaterSense label are described in this product certification system, the *WaterSense Program Guidelines*, and the *Guidelines for Using WaterSense Program Marks*.

When issues related to product nonconformity or misuse of the WaterSense label come to the EPA's attention, EPA shall notify the licensed certifying body that authorized the use of WaterSense label for the product in question. The licensed certifying body shall then engage in investigation and resolution of the complaint in accordance with ISO Guide 65, IAF Guidance on the Application of ISO/IEC Guide 65, and the licensed certifying body's policies and procedures.

The licensed certifying body shall bring to EPA's attention any instances of unauthorized use of a WaterSense label by a manufacturer of a product that it has not certified. EPA will engage in appropriate corrective action with the infringing manufacturer.

Figure 1 outlines the mechanisms for identifying label misuse and the party responsible for handling corrective actions (e.g., the licensed certifying body or EPA).

Figure 1. WaterSense Label Policing and Corrective Action Decision Diagram for Products



6.8 Suspension of the Use of the WaterSense Label on Products

The licensed certifying body shall determine when the use of the WaterSense label shall be suspended due to product nonconformance, misuse of the WaterSense label, or infringement of the product certification system. Label suspension can occur for a limited period of time as specified by the licensed certifying body. During the period of suspension, the manufacturer is prohibited from using the WaterSense label in conjunction with any product associated with the suspended WaterSense label.

The licensed certifying body shall provide the manufacturer of a suspended WaterSense label the conditions under which the suspension can be removed (e.g., corrective actions that shall be taken). At the end of the suspension period, the licensed certifying body shall investigate whether the indicated conditions for reinstating the WaterSense label have been fulfilled. Upon receiving proof of fulfillment of these conditions, the licensed certifying body shall notify the manufacturer that the suspension has been removed. The licensed certifying body shall notify EPA within 30 days of both WaterSense label suspension and reinstatement.

6.9 Withdrawal of the WaterSense Label From Products

In more severe or repeated instances of product nonconformity, misuse of the WaterSense label, failure to meet the requirements for reinstatement of a suspended WaterSense label, or failure to maintain an active WaterSense labeled product listing, the licensed certifying body shall withdraw products' certification and the use of the WaterSense label. The licensed certifying body shall inform the manufacturer that the certification and WaterSense label are being withdrawn via a withdrawal notification. If the WaterSense label is withdrawn from a product for any reason, the licensed certifying body shall ensure that the manufacturer and its wholesalers, distributors, and retailers immediately cease to use the mark in conjunction with that product, and the label is to be eliminated from product packaging and promotional materials within six months from the date of withdrawal notification. The licensed certifying body shall immediately notify EPA of any product withdrawals and EPA shall decide whether termination of the partnership agreement or other corrective action is warranted. The WaterSense label may not be used for any reason by, or in conjunction with a product of, a manufacturer with a terminated partnership agreement.

7.0 AMENDMENTS TO THESE RULES OF PROCEDURE

EPA reserves the right to amend these rules of procedure, which may include amending this product certification system, the *WaterSense Program Guidelines*, and the *Guidelines for Using WaterSense Program Marks*, revising any of the WaterSense product specifications, or issuing technical clarifications as provided in the online compendium. Major amendments to these procedural documents would only be made following an open public process, including discussion with industry and other interested partners.

Revisions to any of the WaterSense product specifications can occur due to technological and/or market changes that affect the usefulness of current specifications to consumers, industry, or the environment. Revisions to specifications would require recertification of products

to the new specifications. The transition period will be identified in the relevant product specification, but will normally be one year.

Figure 2. WaterSense Product Certification Process Flow Diagram

