

<b>DOCKETED</b>	
<b>Docket Number:</b>	19-BSTD-10
<b>Project Title:</b>	AHAM Kitchen Range Hood Directory Approval
<b>TN #:</b>	232059
<b>Document Title:</b>	Home Ventilating Institute Comments - HVI Further opposition to Docket No 19-BSTD-10, Application for Approval of AHAM Product Directory
<b>Description:</b>	N/A
<b>Filer:</b>	System
<b>Organization:</b>	Home Ventilating Institute
<b>Submitter Role:</b>	Other Interested Person
<b>Submission Date:</b>	2/17/2020 4:54:40 PM
<b>Docketed Date:</b>	2/18/2020

*Comment Received From: Home Ventilating Institute  
Submitted On: 2/17/2020  
Docket Number: 19-BSTD-10*

**HVI Further opposition to Docket No 19-BSTD-10, Application for Approval of AHAM Product Directory**

*Additional submitted attachment is included below.*



17 February 2020

TO: Mr. Peter Strait, Supervisor, Building Standards Office  
California Energy Commission  
1516 Ninth Street  
Sacramento, California 95814

via email to: [peter.strait@energy.ca.gov](mailto:peter.strait@energy.ca.gov)

RE: Docket No. 19-BSTD-10, Application for Approval of AHAM Product Directory for use in place of HVI Directory for Kitchen Range Hoods

Dear Mr. Strait:

HVI appreciates the opportunity to submit these comments on behalf of its membership, which includes 44 original equipment manufacturers of residential ventilation products representing over 175 brand names. HVI and its members are strongly opposed to AHAM's request for CEC to approve its alternative range hood certified rating program and directory. For CEC's further consideration, this letter includes a summary of our latest objections to AHAM's second effort to establish an alternative directory. Our primary objection is that AHAM's program and directory have fundamental flaws that are expected to result in divergent ratings from HVI's directory, which is the only range hood directory recognized by CEC, ENERGY STAR, ICC, numerous state codes, and ASHRAE 62.2. Divergent ratings will damage the credibility of HVI-member manufacturers and AHAM-member manufacturers and create confusion for consumers. We respectfully request that CEC reject AHAM's request for approval on these grounds.

- 1. The modifications made by AHAM to their program since their first submission are inadequate to provide confidence that results will be consistent across directories:** Since their first application to CEC, AHAM has modified their program to address some of the inconsistencies raised by HVI. These modifications were made by AHAM to better align programs and directories that AHAM initially claimed were "equivalent". If equivalent, there would have been no need for modification; rather, AHAM's intentional divergence demonstrates their desire to develop a different and less stringent ruleset for their manufacturer members whose OTR products have historically underperformed traditional range hoods in terms of flow, sound, front-burner coverage, and capture efficiency.<sup>1,2</sup> In the interest of full disclosure, CEC should be aware that in developing the range hood capture efficiency rating program, HVI has encountered significant resistance from two OTR manufacturers. HVI believes it is no coincidence that these manufacturers are now strongly supporting the effort within AHAM to form an alternative directory, and HVI has reason to believe that AHAM will propose an

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<sup>1</sup> Singer, B.C., Delp, W.W., Price, P.N., and Apte, M.G. 2012. Performance of Installed Cooking Exhaust Devices. *Indoor Air* 2012; 22: 224–234.

<sup>2</sup> Klug, V.L, Singer, B.C., Bedrosian, T., and D'Cruz, C. 2011. Characteristics of Range Hoods in California Homes – Data Collected from a Real Estate Web Site. LBNL-5067E, Berkeley, CA, Lawrence Berkeley National Laboratory.

alternative test method and/or performance rating for capture efficiency that will provide more favorable ratings for OTRs than those which would otherwise result from the ASTM test method developed by Lawrence Berkeley National Laboratory and administered for certification through HVI. Further, AHAM continues to insist upon maintaining the ability to modify its referenced testing procedures and program procedures at any time. The fact that AHAM has an established procedure in place for doing this continues to demonstrate to CEC that divergence from the HVI's directory is not only possible, but can be expected to occur. Use of identical testing and rating procedures, both now and in the future, should be a minimum criterion of demonstrating equivalence to CEC.

2. **AHAM's program laboratory is not compliant with ASHRAE 62.2 or by extension, Title 24 Chapter 6 requirements for compliance with ASHRAE 62.2:** ASHRAE 62.2 Section 7.1 requires that ratings comply with HVI Publication 920©. HVI Publication 920 Section 1.2.2 requires testing to be completed in an HVI-designated lab. The laboratory proposed by AHAM for administration and testing of its proposed range hood certification program, Intertek-Cortland, is not an HVI-designated lab, and therefore, products rated in accordance with the proposed program would not be in compliance with ASHRAE 62.2 or with Title 24. If AHAM members would like to use Intertek-Cortland to test their products, there is an ASHRAE 62.2 and Title 24 recognized process in place for doing so (i.e., becoming HVI-designated). The test data provided by AHAM in an attempt to show equivalent performance for the Intertek laboratory are insufficient to make such a determination (see bullet #3). Approval of AHAM's program laboratory through creation of an alternative directory would undermine CEC's and ASHRAE 62.2's established laboratory accreditation process that requires a more thorough review process leading to HVI-designation.
3. **Insufficient data have been presented by AHAM to demonstrate equivalent performance by their program laboratory:** The data presented by AHAM within the docket are insufficient to determine whether or not the proposed program lab is within acceptable tolerance; and AHAM's submission of such data demonstrates a lack of qualifications to make such a determination. The one document that has been presented is TN 231742, "Sound Comparison REEL versus Intertek." This document shows the results from some testing of three products on four speed settings, which are reported as a percentage of the reference laboratory (i.e., REEL). To be able to evaluate whether the proposed program's laboratory produces acceptable results, at a minimum, complete test reports with absolute values need to be provided. As is, the testing results show that Intertek's some results are biased low when compared to REEL. This can be expected to result in lower some ratings than are now published in HVI's directory, leading to marketplace confusion. Further, no results have been submitted with respect to airflow or energy consumption to enable a comparison on those bases.
4. **HVI's testing backlog is temporary and does not justify creation of an alternative directory:** Based on our latest communication with REEL (February 17, 2020), the testing backlog extends through early May. REEL has doubled their engineering staff in the last three months to address the surge of demand for certifications and is working to bring an additional airflow station online within the next couple weeks. This temporary backlog is unusual and is being driven primarily by non-HVI-member range hood manufacturers whose products were not rated in compliance with Title 24-2016 but who are now compelled to ensure that their products are rated based on Title 24-2019's new field verification requirement. First-time certifications for

these manufacturers and their products are a positive development for manufacturers, consumers, and the industry. Extending the Title 24 compliance date to accommodate the influx of products from these manufacturers who are now making an effort to comply with CEC requirements is a reasonable measure to address this backlog. However, AHAM's request for CEC to approve a new directory to accommodate historically non-compliant manufacturers, using a non-HVI-accredited lab, and referencing testing and rating procedures that can easily and significantly diverge from those required by Title 24, is a disservice to both consumers and to those manufacturers who have historically rated their products in compliance with Title 24. Further, to help reduce the temporary testing backlog, HVI is currently working to accredit three additional laboratories and has again reached out to Intertek Cortland in an effort to accredit their laboratory for range hood testing.

5. **The current lack of HVI-approved, alternative laboratories demonstrates that the process relied on by ASHRAE 62.2 and CEC is working:** As AHAM notes, the backlog that exists with laboratory testing is due to limitations in the number of HVI approved laboratories to address the surge in demand for certifications; it is not due to constraints associated with HVI's directory. In fact, before the recent surge of non-HVI-member companies to certify their non-CEC-compliant range hoods just prior to the effective date of Title 24-2019, one HVI-approved lab with half of its current staffing was sufficient to keep pace with industry demand. The limitation to the number of HVI approved laboratories has been driven by the inability of candidate laboratories to satisfactorily replicate results from the industry's leading third-party laboratory, REEL. The fact that there is a lack of approved third-party laboratories demonstrates that HVI is enforcing protocols for accuracy that serve as a cornerstone for maintaining confidence with consumers and standards bodies. HVI will continue to work with other laboratories to accredit those that can satisfy minimum requirements for accuracy. HVI is currently working with three laboratories towards this end, with an open invitation to a fourth, Intertek Cortland. We are encouraged by AHAM's support of Intertek Cortland becoming HVI accredited (as confirmed in AHAM's letter to the CEC dated January 24, 2020). In the meantime, approval of an alternative directory using a laboratory that has not been shown to achieve minimum requirements for accuracy would undermine standard practices for laboratory and program accreditation.
6. **HVI's processes are fair and equitable and no data have been presented to the contrary:** In TN 231744, AHAM claimed that "an alternate directory... is needed for a fair and equitable marketplace" but did not provide supporting information on what HVI procedures AHAM considers unfair or inequitable. Simultaneously, AHAM has striven to demonstrate that their directory and certified rating program will be equivalent to HVI's. These positions are inconsistent.
7. **HVI's certified ratings program (CRP) continues to perform well and to serve the industry as well as consumers.** A letter (TN 232031) submitted to CEC by GE Appliances alleges several deficiencies with HVI's CRP. Unfortunately, the letter misrepresents both program data and HVI's CRP track record. For CEC's reference, following are HVI's responses to the allegations:

<b>GEA Allegation</b>	<b>HVI Response</b>
Poor third-party lab	REEL is ISO 17025 accredited, employs class-leading technology for measuring flow and sound, has set the bar for residential ventilation product ratings for the past several decades, and is under constant oversight from manufacturers whenever results vary from expectations.
Poor test procedure	HVI's test procedure is based on ANSI/AMCA 210-ANSI/ASHRAE 51 with prescriptive details necessary to accommodate test setup, has been vetted with manufacturers and laboratories for several decades, and is under constant maintenance from the HVI General Membership to permit technical adjustments as necessary. At this stage, AHAM has proposed to use the same test procedure.
Poor sample selection process for certification	In HVI's process, the OEM submits a sample for initial testing for certification directly to the approved testing lab. During verification, model numbers are chosen randomly and the default HVI procurement process is purchasing either off-the-shelf or through an online retailer. The verification process works well to ferret out any manufacturer gaming or "cherry picking" that may have occurred during the certification process. Notably, HVI's process is more stringent than that initially proposed by AHAM since the default requirement is verification testing using off-the-shelf products purchased at retail.
Lax procedures for re-listing a non-conforming product	In the interest of consumers, HVI strives to ensure accurate ratings and to foster product improvement. In this respect, HVI permits OEMs with non-conforming products to either relist their product at the lower test results produced by the verification lab report or to modify the product and relist based on a new test report. At this stage, AHAM has proposed to adopt the same test procedures within their program.
Insufficient consequences for product failing verification	HVI's verification program includes measures to remove non-conforming products from the HVI-Certified Products Directory if the manufacturers are unable to resolve the failures to HVI's satisfaction. Manufacturers of non-conforming products are required to bear 100% of the financial burden associated with the challenge of their product. Additionally, manufacturers who are repeat offenders risk being expelled from the program per HVI Publication 920 Section 4.28. HVI also reserves the right to require special verification for manufacturers or product categories whose products have become areas of concern (HVI Publication 920 Section 9.1.4). At this stage, AHAM has proposed to adopt the same test procedures within their program.

<p>HVI has no plan or program in place to address this significant issue</p>	<p>The verification failure rate that GE referenced was based on very preliminary 2018 data, and as noted in the HVI annual report, “these statistics are not true representations of the success or failure of any particular verification testing cycle”. Preliminary data may also include non-performance related failures such as procedural violations regarding proper labeling. In fact, according to the latest data available (still considered preliminary), the industry’s record for 2018 verifications across all product categories was 70%, and 100% for range hoods.</p> <p>Manufacturers’ products are designed and produced at varying levels of quality. HVI’s verification program routinely evaluates models at every point in the quality spectrum to confirm that the products are continuing to perform as advertised. While it is understandable that manufacturers would desire a verification pass rate of 100%, lower verification pass rates actually demonstrate that the oversight process is working. Failures result when real discrepancies are identified in the actual performance of products sourced at retail. Identification of failures provides an opportunity to correct ratings and/or products on this basis. If there were no failures in product performance, there would be no need for a verification program. Consequently, HVI’s ongoing scrutiny is proof that the verification program is strong and that the association is not simply rubber-stamping the results in an effort to appease certain manufacturers. Through continued, scrupulous oversight of ratings, which necessitates verification “failures”, HVI serves both consumers and manufacturers.</p>
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As noted in our letter to CEC dated January 9, 2020, AHAM’s proposed program still suffers from the following weaknesses: it relies on a primary laboratory that is not approved for compliance with ASHRAE 62.2 or Title 24, it approves the use of manufacturer-laboratories for certifications without having submitted sufficient documentation on how such laboratories are qualified, it does not provide for timely updates of referenced test procedures, it allows for reference procedures to be changed or revoked at any time, and it has not produced sufficient data showing that currently available products would achieve comparable performance ratings under the alternate certification rating program. HVI requests that CEC reject AHAM’s application on these bases while HVI works to bring on more accredited laboratories to address the temporary testing backlog and to ensure adequate testing capacity as the industry’s needs expand.

Thank you for the opportunity to provide these comments and for your consideration.

Kind regards,



Jacki Donner  
CEO