



Information Technology Industry Council
Leading Policy for the Innovation Economy



European-American
Business Council



CEA
Consumer Electronics Association

April 11, 2008

Edwin G. Foulke, Jr.
Assistant Secretary of Labor
for Occupational Safety and Health
United States Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Re. OSHA Acceptance of Supplier's Declaration of Conformity under NRTL Program

Dear Mr. Foulke,

Worldwide, the information and communication technology (ICT) and electronics industries have a proven track record of providing safe, high quality, state-of-the-art products. With the elimination of most tariffs and quotas and adoption by regulators of internationally recognized safety standards, international trade in these products has flourished. However, as more countries begin to regulate for these products, this progress is being threatened by the proliferation of unique regulatory and compliance requirements.

Membership in the World Trade Organization calls governments to keep regulatory intervention to the minimum necessary to achieve a legitimate objective. Governments should set sufficient rules and requirements to encourage compliance, but not make them unnecessarily costly as to discourage innovation and hinder trade. Representing over 2000 leading high tech companies, the undersigned organizations believe that mandatory certification of some products under the Occupational Safety and Health Administration's (OSHA) Nationally Recognized Test Lab (NRTL) program is more burdensome than necessary to meet its goal of ensuring workplace safety.

Accordingly, we request OSHA to issue an Advance Notice of Proposed Rulemaking (ANPRM) to expand its present interpretation of safety approvals for a limited group of low risk electronic products to include the use of Supplier's Declaration of Conformity (SDoC) as an option to third-party certification.

OSHA's allowance of SDoC will maintain workplace safety while reducing unnecessary regulatory burden. It will begin to align the U.S. with the European Union's established SDoC approach. The issue of SDoC has been raised by the European Commission ("Commission") and has been accepted by the U.S. government as an agenda item for the newly created Transatlantic Economic Council (TEC). The TEC was created to address regulatory differences like SDoC, and its acceptance on the TEC agenda translates into a U.S. obligation to advance consideration of expanding the acceptance of SDoC. The U.S. government must demonstrate a good faith effort on SDoC if it hopes to have the Commission in turn address U.S. concerns in Europe related to regulatory divergence in other sectors. OSHA's issuance of an ANPRM would signal sincerity on the part of the U.S. government to consider the EU's concerns.

As non-U.S. regulators develop their own safety programs for ICT and electronics products, many will look toward the regulatory practices in the United States. If countries choose to adopt pre-market conformity assessment requirements that rely on a unique system of testing laboratories and certification bodies, then the global product safety regulatory landscape will become increasingly more complex and unnecessarily costly for U.S. industry. Products will be more likely to be re-tested and re-certified to the same international product safety standard, resulting in a patchwork of rules and regulations, fragmenting global markets, and introducing time delays and additional cost to product entry with no commensurate increase in product safety.

OSHA's acceptance of both SDoC and third-party certification under the NRTL program will:

- Maintain OSHA's mandate of ensuring workplace product safety;
- Facilitate trade between the U.S. and EU by helping to align regulatory approaches for this product scope; and
- Provide a positive model for third-country regulators, as they establish their own safety programs for the same scope of products

Based on relatively few stakeholder comments on a 2005-2006 Request for Information, OSHA concluded that at the present time, it would not take further action on the SDoC issue. OSHA did not express its opinion on the merits of adopting SDoC.

The undersigned organizations strongly believe that it is time for OSHA to revisit the SDoC option by issuing an Advance Notice of Proposed Rulemaking prior to the TEC's next meeting in mid-2008. We would welcome the opportunity to discuss this request in further detail and look forward to your reply.

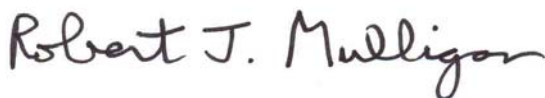
Sincerely,



Rhett Dawson
President & CEO
Information Technology Industry Council
rdawson@itic.org



Michael C. Maibach
President & CEO
European-American Business Council
M@Maibach.US



Rob Mulligan
Senior Vice President International
AeA
rob_mulligan@aeonet.org



Brian Markwalter
Vice President of Technology and Standards
Consumer Electronics Association
bmarkwalter@ce.org

cc:

Dan Price
Assistant to the President for International Economic Affairs &
Deputy National Security Advisor for International Economic Affairs
The White House
Washington, DC

John Hermann
Special Assistant to the President
Senior Director, Intl Trade, Energy & Env't
National Security Council
The White House
Washington, DC

Lauren Catipon
Director
European Affairs
National Security Council
The White House
Washington, DC

Susan E. Dudley
Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
Washington, DC