

Disqualification Procedures ENERGY STAR Products

Basis for Product Disqualifications:

1. Testing Failures – Product disqualifications are the result of performance testing failures under one of the following verification testing efforts:
 - Third Party Verification Testing – this is ENERGY STAR’s new testing program established under the 2010 program enhancement effort. Verification testing (and referral of test failures to EPA) will be introduced in the fall of 2011.
 - CFL Third Party Testing – this program and the underlying CFL product specification was developed by DOE and transferred to EPA for implementation during its first cycle of testing in the summer of 2010. Generally two testing cycles occur per year and roughly 180 CFL models are tested per cycle. Eventually this testing program will be integrated into EPA’s Third Party Verification Testing Program.
 - Quality Assurance Lighting Program (QA4) – this EPA testing verification program tests residential lighting fixtures. This testing program will also be integrated into EPA’s Third Party Verification Testing Program.
 - DOE Appliance Testing – DOE’s ENERGY STAR appliance testing program for refrigerators, dish washers, clothes washers and room air conditioners will continue to be the basis for testing failure referrals to EPA.

Product Non-Conformity - In a small number of cases, testing is unnecessary as a basis for product disqualification. Examples include a discrepancy with product categorization, and when a product’s marketed use is inconsistent with the intended qualifying use.

Determining Disqualifications:

1. EPA Notification by Certification Body (CB) - CBs are required to report testing failures to EPA within 2 days of determining a testing failure. Upon EPA's review of the information, EPA may determine that a product with a testing failure does not warrant disqualification for reasons such as, CB administrative error, lab administrative error, partner administrative error, or a *de minimis* performance deviation. In such cases, EPA may decide that no further action will be taken.
2. Manufacturer Notice and Opportunity for Dispute - When EPA believes a product may warrant disqualification, the Agency will notify the manufacturer at the email address provided by the manufacturer and provide 20 days for a written response. That response may include the submission of additional relevant information to EPA. Where applicable, EPA will consult with DOE regarding the appropriate application of test

methods. EPA will review submitted information from the manufacturer and determine if any additional product testing and/or analysis is necessary. EPA will provide time necessary to resolve questions of potential non-compliance when a manufacturer acts in good faith and as deemed necessary by EPA.

3. EPA will make a final determination of product status and inform the manufacturer of its decision.

Case Management:

1. All matters for which EPA notifies a manufacturer of a testing failure are assigned a case number.
2. Manufacturer partners, component suppliers and other involved parties are asked to reference the case number in communications with the Agency.
3. A case tracking sheet is developed and maintained to document each case.

Manufacturer Product Control Measures:

Manufacturers are provided a standard format for submitting product control measures for disqualified products and provided 20 days from time of notification to submit them.

In all instances, where a product has been disqualified, the manufacturer is required, at a minimum, to:

- immediately cease unit labeling and shipment;
- remove ENERGY STAR references from related marketing materials, spec sheets and websites; and
- cover or remove labels on units within the manufacturer's control.

Additional measures may be required for certain cases. The following factors are considered in developing such requirements:

- Consumer investment;
- Last date of product manufacture;
- Last date of shipment;
- Quantity of units produced;
- Estimated sell-through period of product type;
- Scope and depth of product distribution; and
- Preventative measures adopted.

Product Control Measures are based on and apply to the model number of the disqualified product. Where a product has been modified but not re-qualified with a new model number,

control measures apply to all units with that model number, irrespective of product modifications that may have occurred during the period in which it was a qualified product.

In no circumstances may a new ENERGY STAR product be qualified using the model number of a previously disqualified product.

A failure to submit thorough and timely product control measures may affect partnership benefits.

Stakeholder Notification:

1. Qualified Product List updated - When a determination to disqualify is made, the model is removed from the ENERGY STAR Qualified Products List. EPA notifies the associated CB to disqualify the model in CB product lists.
2. ENERGY STAR Integrity Webpage updated – Once the product has been removed from the ENERGY STAR Qualified Products List, EPA posts the model on its list of disqualified products on the ENERGY STAR Program Integrity webpage. This webpage provides consumers and utilities with information regarding models that no longer meet product standards.
3. Utilities Notification – On a monthly basis, those utilities that have opted for regular product disqualification updates receive notice of product categories affected by disqualifications during that period.

Compliance Monitoring:

As part of its broader effort to ensure proper use of the ENERGY STAR logo, EPA supports a number of initiatives that help ensure the label is effectively removed from disqualified products.

1. Retail Store-Level Assessment (RSL) – The RSL project involves a broad market review of retail-shelf products twice a year in major retailers throughout the U.S. to identify products improperly labeled as ENERGY STAR. It also includes a more focused review of retail shelves and online sources to identify any disqualified models that continue to be advertised or labeled as ENERGY STAR products.
2. Commercial Food Services (CFS) monitoring – The CFS project reviews the use of the ENERGY STAR logo in the CFS industry, including at trade shows, and through catalogue and website marketing to ensure that only qualified products are labeled and marketed as ENERGY STAR.
3. Customs Port Inspections – ENERGY STAR works closely with U.S. Customs to support the examination and seizure of disqualified products labeled as ENERGY STAR arriving in U.S. ports.

As a federal trademark owner, EPA reserves the right to adjust or modify these procedures as appropriate.