

## **Disqualification Procedures ENERGY STAR® Products**

Last updated: February 28, 2018

### Basis for Product Disqualifications:

1. Testing Failures – Product disqualifications are the result of performance testing failures under ENERGY STAR Verification Testing or U.S. Department of Energy (DOE) Appliance Testing.
2. 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. U.S. Environmental Protection Agency (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. Brand Owner Partner Notice and Opportunity for Dispute - When EPA believes a product may warrant disqualification, the EPA will notify the brand owner at the email address provided by the brand owner and provide 20 days for a written response. That response may include the submission of additional relevant information to EPA, and should be submitted as a "dispute" if challenging the product's pending disqualification. Where applicable, EPA will consult with DOE regarding the appropriate application of test methods. EPA will review submitted information from the brand owner 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 brand owner acts in good faith and as deemed necessary by EPA.
3. EPA will make a final determination of product status and inform the brand owner of its decision.
4. Additional Appeal Opportunity for Brand Owner – When EPA notifies a brand owner at the conclusion of a dispute review that a product will be disqualified, the brand owner may immediately notify EPA of a decision to appeal that determination. EPA will consider new information at that time, or conduct a more detailed examination of testing, where warranted.

### Case Management:

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

### Brand Owner Product Control Measures:

Brand owners 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 brand owner is required, at a minimum, to:

- Immediately cease shipment of units displaying the ENERGY STAR label;
- Immediately cease labeling associated units as ENERGY STAR;
- Remove ENERGY STAR references from related marketing materials, spec sheets and websites; and
- Cover or remove labels on units within the brand owner'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 after initial certification but not recertified 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 certified product.

In no circumstances may a new ENERGY STAR product be recertified 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 update - When a determination to disqualify is made, EPA directs the associated CB to withdraw ENERGY STAR certification for the model(s).
2. ENERGY STAR Integrity Webpage update – 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 biweekly 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 on a regular basis in major retailers throughout the U.S. to identify products improperly labeled as ENERGY STAR, including any disqualified models that continue to be advertised or labeled as ENERGY STAR products.
2. Disqualified Products Online Assessment – The online assessment identifies products disqualified from ENERGY STAR that remained labeled as ENERGY STAR on brand owner and retailer websites in an effort to monitor compliance with product control measures that brand owner partners submit when products are disqualified.
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.