

Department of Energy Resources Guidelines for Implementing the Appliance Efficiency Standards at 225 CMR 9.00

1. Authority

Pursuant to G.L. c. 25B, the Department of Energy Resources (DOER) has adopted regulations at 225 CMR 9.00 (Appliance Efficiency Standards) for testing and certifying the energy and water efficiency standards of certain appliances and lamps listed therein. These Guidelines provide details on how DOER will apply those regulations.

2. Definitions

In addition to terms defined in G.L. c. 25B and 225 CMR 9.00, terms used in these Guidelines are defined as follows:

Appliance Efficiency Standards: 225 CMR 9.00

Covered Installer: Installer of Covered Products

Covered Manufacturer: Manufacturer of Covered Products

Covered Parties: Collective term for Covered Manufacturers, Sellers, and Installers

Covered Product: Appliance or product with an energy or water efficiency standard specified in 225 CMR 9.03.

Covered Seller: Distributor or Retailer of Covered Products

Proxy Standard: A required or voluntary energy or water efficiency standard set by an entity other than the Commonwealth of Massachusetts and listed in 225 CMR 9.03 including, but not limited to, voluntary Energy Star and WaterSense standards and required standards set forth in the California Code of Regulations, Code of Federal Regulations, or U.S. Code

SASD: The NEEP State Appliance Standards Database at <https://neep.org/SASD>

3. Application of the Guidelines

M.G.L. c. 25B §3 provides a list of new appliances sold, offered for sale, or installed in the Massachusetts, to which the statute, the regulation, and these Guidelines apply. The statute specifically exempts the following products:

- Appliances or lamps manufactured in Massachusetts and sold outside Massachusetts

- Appliances or lamps manufactured outside Massachusetts and sold at wholesale inside Massachusetts for final retail sale and installation outside Massachusetts
- Appliances or lamps installed in manufactured homes at the time of construction
- Appliances or lamps designed expressly for installation and use in recreational vehicles
- Used appliances

4. Manufacturer Requirements

4.1. Certification

Covered Manufacturers must certify products to DOER beginning January 1, 2022. Covered Products may not be shipped for sale in Massachusetts unless they have been certified to DOER as meeting the required standards. Covered Manufacturers must certify Covered Products to DOER in the Northeast Energy Efficiency Partnerships State Appliance Standards Database (SASD), which can be found at <https://neep.org/SASD>. Covered Products with a standard set in 225 CMR 9.03 to U.S. Code (e.g., products with standards preempted by federal rules) do not need to be certified in SASD.

4.2. Coordination with the Department of Occupational Licensure Plumbing Board Approved Products Database

For Covered Products that are also regulated by 248 CMR 3.04, including water closets, urinals, showerheads, and faucets, Covered Manufacturers must certify their compliant Covered Products as set forth herein and in the Board of State Examiners of Plumbers and Gas Fitters' ("Plumbing Board") Accepted Plumbing Products Online System, available at https://licensing.reg.state.ma.us/pubLic/pl_products/pb_pre_form.asp.

A discrepancy between a Covered Product listing in SASD and the Accepted Plumbing Products Online System (https://licensing.reg.state.ma.us/pubLic/pl_products/pb_pre_form.asp) may be reported to both DOER.ApplianceStandards@mass.gov and plumbing.products@mass.gov for review. A discrepancy between the two databases is not considered a violation of the requirements under 225 CMR 9.00.

4.3 Labeling Covered Products

Covered Manufacturers of Covered Products shall identify each model offered for sale in Massachusetts as in compliance with the Appliance Efficiency Standards, by means of a mark, label or tag on the product, packaging, or unit packaging at the time of sale or installation. Label requirements include:

- For Covered Products that can currently bear the mark associated with the Proxy Standard in 225 CMR 9.03, that Proxy Standard’s label is sufficient to illustrate that the Covered Product complies with Massachusetts’ standards.
- For Covered Products that cannot currently bear the mark associated with a Proxy Standard, Covered Manufacturers shall clearly label its specified efficiency (e.g. gpm, l/m/W, etc.) or that it complies with 225 CMR 9.00 on each Covered Product or, for plumbing fixtures or fittings, unit packaging.
- In addition, Covered Manufacturers shall label each Covered Product with the Covered Manufacturer’s name and the Covered Product’s brand name.

4.4 Testing Covered Products

Covered Manufacturers shall test units of each model of their Covered Products, using the applicable test method listed in 225 CMR 9.03. DOER will honor tests required for a Proxy Standard certification used in 225 CMR 9.03. Covered Manufacturers of Covered Products that do not use a Proxy Standard must submit test results, using the method defined in 225 CMR 9.03, to DOER via e-mail to DOER.ApplianceStandards@mass.gov. Once a Covered Product is offered for sale in Massachusetts, DOER reserves the right to test up to five Covered Products per year, per Covered Manufacturer, to verify compliance with the Appliance Efficiency Standards. If a Covered Product meets the efficiency standards specified in 225 CMR 9.03, DOER will pay for the test. If a Covered Product does not meet the efficiency standards, the Covered Manufacturer will pay for the test.

A Covered Manufacturer may appeal the results of a test by notifying DOER at DOER.ApplianceStandards@mass.gov within 30 days of receipt of the test results. DOER may evaluate any evidence of the test’s failure to accurately measure compliance and issue a final determination within 90 days. DOER will not evaluate appeals challenging the validity of a Proxy Standard.

5. Covered Seller and Installer Requirements

5.1 Covered Sellers

Beginning on January 1, 2023, Covered Sellers may only offer Covered Products for sale or installation in Massachusetts that are certified as compliant with the Appliance Efficiency Standards in the SASD database. Covered Sellers may offer Covered Products that do not comply with 225 CMR 9.00 for sale or distribution in other states.

Covered Sellers that sell online may offer on their sites Covered Products that do not comply with 225 CMR 9.00 for sale in other states. Online retailers may not ship non-compliant Covered Products to Massachusetts addresses.

5.2 Covered Installers

Beginning on January 1, 2023, Covered Installers may only install Covered Products in Massachusetts that are certified as compliant with the Appliance Efficiency Standards in the SASD database.

6. Compliance Support

DOER or its designee may offer support to Covered Parties to ensure compliance with 225 CMR 9.00. DOER's compliance assistance activities may include, but are not limited to:

- Outreach to Covered Parties to ensure they are aware of their obligation under 225 CMR 9.00
- Training materials and sessions detailing how Covered Parties comply
- Technical assistance to Covered Parties, providing tools to improve compliance
- Measurement of compliance levels

7. Enforcement

7.1 Inspections

DOER or its designee may conduct random or scheduled inspections at Covered Seller locations and at sites where Covered Products are being installed. DOER or its designee may not make a random visit more than once per calendar year to the same location of a Covered Seller or Covered Installer unless a violation is found. If DOER or its designee learns of possible violations, it may further investigate and provide a remediation plan for the Covered Seller or Covered Installer.

7.2 Complaints

DOER will maintain an online form on its Appliance Standards webpage where any party can notify the agency that a Covered Manufacturer, Seller, or Installer has not complied with the 225 CMR 9.00.

- a. Any Covered Manufacturer, Covered Seller, or Covered Installer that is not in compliance with the Appliance Efficiency Standards may be reported using the complaint form.
- b. DOER will investigate all complaints and report the results to the Attorney General's Office as set forth in section 7.4 below.

7.3 Public Notice of Non-Compliant Product

DOER may publish a list of violations of 225 CMR 9.04(5) on its Appliance Standards webpage. The list may include the following information:

- Name of the Covered Manufacturer;
- Category, brand name, and model number of Covered Product;
- Name and business address of the Covered Party found in violation;
- Nature of the violation;
- Date of violation;
- Any change in status since the date of violation;
- Date the violation was referred to the Attorney General’s Office; or
- Any related investigation initiated pursuant to the Massachusetts Consumer Protection Act, G.L. c. 93A.

7.4 Report Violations to Attorney General’s Office

DOER will provide periodic reports of violations of the Appliance Efficiency Standards to the Attorney General’s Office. DOER and the Attorney General’s Office will determine whether to impose civil penalties according to the Massachusetts Consumer Protection Act, G.L. c. 93A.