

Title 14
INDEPENDENT AGENCIES
Subtitle 26 MARYLAND ENERGY ADMINISTRATION

Notice of Proposed Action

[##-###-X]

The Maryland Energy Administration proposes to amend Regulations **.01–.02** and **.04–.13**, replace Regulation **.03**, and adopt new Regulation **.14** under **COMAR 14.26.03 Maryland Appliance Efficiency Standards**.

Statement of Purpose

The purpose of this action is to:

- (1) establish the rules and processes used to implement Ch. 564, Acts of 2022 and the associated alterations to State Government Article, §9-2006., Annotated Code of Maryland; and
- (2) replace existing regulation, which has been preempted.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has an overall positive economic impact. Some of the regulated products have no incremental cost. However, there are higher costs to purchase certain affected products. Utility bill savings are expected to offset any increased costs, typically within one year and at most in just over one year, with those savings continuing in future years. The estimated net result of the regulations will be over 6,000 gigawatt hours (GWh) of electricity savings (1 GWh = 1,000.00 megawatt hours), 200 billion gallons of water savings, and over 2 million metric tons of carbon dioxide savings by 2040.

Any division of government, business, or individual purchasing an affected product may incur a higher purchase price depending on the product and product category, but are expected to recoup those expenses fairly rapidly.

Provisions in the legislation that prompted these regulations and the regulations themselves should reduce strain on any businesses that manufacture, sell, or install affected products. This includes a relatively long horizon before the regulations take effect (2024 or 2025), exemption of products sold before the effective date for installation (for profit), and the exemption of any products in stock at retail businesses prior to the corresponding effective date.

Economic Impact on Small Businesses

The proposed action has minimal impact on small businesses. The effect of consumer and commercial products that can no longer be sold, and eventually installed, will be Statewide, placing businesses within the State on equal footing. Similar regulations are being adopted by other jurisdictions in the region, and the cost differential between products that are eligible for sale under these regulations and those that are currently offered for sale in the State that will not be eligible for sale is intentionally limited. Additionally, non-qualifying items under the regulation that are in stock at a retailer are exempted from the sales provision of the regulations.

Impact on Individuals with Disabilities

The proposed action has no anticipated impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to ATTN: Efficiency Standards, Maryland Energy Administration, 1800 Washington Blvd, Suite 755, Baltimore, MD 21230, or email to SEIFComments@maryland.gov. Comments will be accepted through **MONTH ##, 2019**. A public hearing has not been scheduled.

Subtitle 26 MARYLAND ENERGY ADMINISTRATION

14.26.03 Maryland Energy Efficiency Standards

Authority: State Government Article, §9-2006, Annotated Code of Maryland

.01 Purpose.

This chapter:

- A. Implements [the Maryland Energy Efficiency Standards Act (Act)] Ch. 564, Acts of 2022 by establishing minimum efficiency standards for certain new products sold or installed in the State; and
- B. (text unchanged)
- [C. Identifies the date on which these regulations will be preempted by the federal Energy Policy Act of 2005.]

.02 Scope.

[The Maryland Energy Efficiency Act] Ch. 564, Acts of 2022 establishes minimum efficiency standards for several consumer and commercial products to be sold or installed in Maryland after dates specified in the Act. After the effective date of implementation, specified products [must] shall meet the efficiency standard established in this chapter and be labeled [accordingly] as required. This chapter defines the products and the efficiency standards, [sets up] establishes [appropriate] testing and inspection procedures, and describes the penalties for failure to comply with the standards.

.03 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Act" means Ch. 564, Acts of 2022.
- (2) "Air purifier" has the meaning stated in State Government Article, §9-2006, Annotated Code of Maryland.
- (3) "Commercial dishwasher" means a machine designed to clean and sanitize dinnerware, flatware, cooking utensils, and similar items by applying sprays of detergent solution and a sanitizing rinse.
- (4) "Commercial steam cooker" or "compartment steamer" means a device with one or more food-steaming compartments in which the energy in the steam is transferred to the food by direct contact.
- (5) "Covered product" means an item listed in Regulation .04 of this section that is also assigned a minimum efficiency and testing standard under .05 of this Section.
- (6) ENERGY STAR® means the U.S. Environmental Protection Agency energy efficiency product identification and promotion program established under 42 U.S. Code § 6294a.
- (7) Faucet.
 - (a) "Faucet" means a fitting that controls and guides the flow of water in a water supply system.
 - (b) "Faucet" includes a:
 - (i) Private lavatory faucet;
 - (ii) public lavatory faucet;
 - (iii) residential kitchen faucet; and
 - (iv) replacement aerator for a private lavatory faucet, public lavatory faucet, or residential kitchen faucet.
 - (c) "Faucet" does not include a metering faucet.
- (8) "Person" has the meaning stated in COMAR 14.26.02.03.
- (9) "Portable electric spa" means a factory-built electric spa or hot tub that includes water-heating or water circulating equipment.
- (10) "Public lavatory faucet" means a faucet designed to be installed in a public bathroom.
- (11) Replacement aerator.
 - (a) "Replacement aerator" means an aerator that is:
 - (i) Designed as a replacement part for a faucet; and
 - (ii) Packaged and sold separately from the faucet it is designed to attach to.
- (12) "Residential ventilating fan" means a fan, which can be ceiling mounted, wall mounted or remotely mounted, that is designed to move air from inside a building to the outdoors, such as fans commonly used in a bathroom or utility room.
- (13) "Retailer" means a person engaged in the business of making retail sales within the State.
- (14) Showerhead.
 - (a) "Showerhead" means a device or set of devices that is:
 - (i) Attached to a single water supply fitting; and
 - (ii) Used for spraying water for bathing
 - (b) "Showerhead" includes a showerhead that can be held or fixed in place and connected by a flexible hose, also known as a hand-held showerhead.
 - (c) "Showerhead" does not include safety equipment such as eyewash stations or drench showers.
- (15) "Spray sprinkler body" has the meaning stated in State Government Article, §9-2006, Annotated Code of Maryland.
- (16) "Urinal" has the meaning stated in State Government Article, §9-2006, Annotated Code of Maryland.

(17) "Water closet" has the meaning stated in State Government Article, §9-2006, Annotated Code of Maryland.

(18) Water cooler:

(1) "Water cooler" means a freestanding device that uses energy to cool or heat potable water.

(2) "Water cooler" includes:

(a) cold only units that dispense only cold water;

(b) hot and cold units that dispense both hot and cold water;

(c) cook and cold units that dispense both cold and room temperature water; and

(d) storage-type units that store thermally conditioned water in a tank inside the water cooler that is available instantaneously, including point-of-use, dry storage compartment, and bottled water coolers.

(3) "Water cooler" does not include:

(i) Units that provide pressurized water and are not free standing such as wall mounted, under sink, or otherwise building integrated units;

(ii) Air-source units and other units with a water source other than bottled or tap water; and

(iii) Units with provisions for making, storing and dispensing small amounts of ice and units that are primarily ice makers that have a water dispensing function.

(19) "WaterSense" means the U.S. Environmental Protection Agency program that identifies and promotes water efficient products that meet specified criteria for efficiency and performance.

(20) "Widely available in Maryland" has the meaning stated in State Government Article, §9-2006, Annotated Code of Maryland.

.04 Scope of Application of Standards.

A. This chapter applies to the testing, certification, and enforcement of efficiency standards for the following types of new products sold, offered for sale, or installed *for profit* in the State:

(1) [Unit heaters;

(2) Low-voltage dry-type distribution transformers;

(3) Commercial refrigeration cabinets; and

(4) Large packaged air-conditioning equipment.] *Portable electric spas;*

(2) *Air purifiers;*

(3) *Commercial dishwashers;*

(4) *Commercial steam cookers;*

(5) *Faucets;*

(6) *Residential ventilating fans;*

(7) *Showerheads;*

(8) *Spray sprinkler bodies;*

(9) *Urinals;*

(10) *Water closets; and*

(11) *Water coolers.*

B. This chapter does not apply to:

(1)—(3) (text unchanged)

(4) Products designed expressly for installation and use in recreational vehicles *or marine vessels.*

(5) *Products to be sold at retail that are in stock at the retail establishment before the effective date of any efficiency standard regulation for that item.*

[C. This chapter only applies to the following products until the following dates:

(1) Unit heaters: August 1, 2008;

(2) Low-voltage dry-type distribution transformers: January 1, 2007;

(3) Commercial refrigeration cabinets: January 1, 2010;

(4) Large packaged air-conditioning equipment of at least 20 tons and not more than 63.3 tons of cooling capacity: January 1, 2010.

D. For large packaged air-conditioning equipment with capacities from 63.4 tons to 80 tons of cooling capacity, the Act will remain in effect.]

.05 Minimum Efficiency Standards.

A. On or after the date specified in Regulation .06 of this chapter, a person may not sell or install *for profit* a listed product that does not meet or exceed the minimum efficiency standards listed in this regulation.

B. [Unit heaters shall be equipped with an intermittent ignition device and shall have either power venting or an automatic flue damper.

C. The efficiency of all low-voltage dry-type distribution transformers may not be less than the values shown in table 4-2 of National Electrical Manufacturers Association Standard TP-1-2002.

D. Commercial refrigeration cabinets shall meet the requirements shown in the following table:

Equipment Type	Maximum Daily Energy Consumption (kilowatt hours)
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are refrigerators with solid doors	$0.125V + 2.76$
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are refrigerators with transparent doors	$0.172V + 4.77$
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are freezers with solid doors	$0.398V + 2.28$
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are freezers with transparent doors	$0.940V + 5.10$
Reach-in cabinets that are refrigerator-freezers With solid doors	$0.273AV + 1.65$
Where: V = total volume in cubic feet; and AV = adjusted volume, which is the sum of the volume of refrigerated space, and 1.63 times the volume of freezer space.	

E. Large packaged air-conditioning equipment shall meet the Tier II requirements of the "minimum equipment efficiencies for unitary commercial air conditioners" or "minimum equipment efficiencies for heat pumps", as appropriate, developed by the Consortium for Energy Efficiency, Boston, Massachusetts, as in effect on January 1, 2002.] *Air purifiers shall meet the following requirements as measured in accordance with the ENERGY STAR program requirements product specification for room air cleaners, version 2.0:*

(1) *The clean air delivery rate for smoke shall be 30 or greater;*

(2) *For models with a clean air delivery rate for smoke of less than 100, the clean air delivery rate per watt for smoke shall be greater than or equal to 1.7;*

(3) *For models with a clean air delivery rate for smoke greater than or equal to 100 and less than 150, the clean air delivery rate per watt for smoke shall be greater than or equal to 1.9;*

(4) *For models with a clean air delivery rate for smoke greater than or equal to 150, the clean air delivery rate per watt for smoke shall be greater than or equal to 2.0;*

(5) *For ozone-emitting models, measured ozone shall be less than or equal to 50 parts per billion;*

(6) *For models with a wi-fi network connection enabled by default when shipped from the manufacturer, partial on-mode power may not exceed 2 watts; and*

(7) *For models without a wi-fi network connection enabled by default when shipped from the manufacturer, partial on-mode power may not exceed 1 watt;*

C. *Commercial dishwashers shall meet the applicable qualification criteria specified in the ENERGY STAR program requirements product specification for commercial dishwashers, version 2.0;*

D. *Commercial steam cookers shall meet the requirements specified in the ENERGY STAR program requirements product specification for commercial steam cookers, version 1.2;*

E. *Faucets shall meet the following standards when tested in accordance with 10 C.F.R. § 430, subpart b, appendix s, compliance with which shall be verified by using the uniform test method for measuring the water consumption of faucets and showerheads in effect on January 1, 2020:*

(1) Private Lavatory faucets and replacement aerators shall not exceed a maximum flow rate of 1.5 gallons per minute at 60 pounds per square inch;

(2) Residential kitchen faucets and replacement aerators shall not exceed a maximum flow rate of 1.8 gallons per minute at 60 pounds per square inch, with optional temporary flow of 2.2 gallons per minute provided the faucet defaults to a maximum flow rate of 1.8 gallons per minute at 60 pounds per square inch after each use; and

(3) Public lavatory faucets and replacement aerators shall not exceed a maximum flow rate of 0.5 gallons per minute at 60 pounds per square inch;

F. Portable electric spas shall meet the requirements of the American National Standard for Portable Electric Spa Energy Efficiency approved by the American National Standards Institute on November 19, 2019;

G. Residential ventilating fans shall meet the following requirements when tested in accordance with the Home Ventilation Institute's airflow test procedure stated in Home Ventilation Institute Publication 916:

(1) In-line residential ventilating fans shall be equipped with a fan motor with an efficiency of at least 2.8 cubic feet per minute per watt; and

(2) Non-in-line residential ventilating fans shall be equipped with a fan motor with an efficiency of at least 1.4 cubic feet per minute per watt for airflows less than 90 cubic feet per minute and at least 2.8 cubic feet per minute per watt for airflows greater than or equal to 90 cubic feet per minute;

H. Showerheads shall not exceed a maximum flow rate of 2.0 gallons per minute at 80 pounds per square inch when tested in accordance with 10 C.F.R. § 430, subpart b, appendix s, compliance with which shall be verified by using the uniform test method for measuring the water consumption of faucets and showerheads in effect on January 1, 2020;

I. Spray sprinkler bodies that are not specifically excluded from the scope of the WaterSense specification for spray sprinkler bodies, version 1.0 shall include an integral pressure regulator and meet the water efficiency, performance criteria, and other requirements specified in the WaterSense specification for spray sprinkler bodies, version 1.0;

J. Urinals shall have a maximum flush volume of 0.5 gallons per flush when tested in accordance with 10 C.F.R. § 430, subpart b, appendix t, compliance with which shall be verified by using the uniform test method for measuring the water consumption of water closets and urinals in effect on January 1, 2020;

K. Water closets shall meet the following standards when tested in accordance with 10 C.F.R. § 430, subpart b, appendix t, compliance with which shall be verified by using the uniform test method for measuring the water consumption of water closets and urinals in effect on January 1, 2020:

(1) Subject to item b of this item, water closets shall have a maximum flush volume of 1.28 gallons per flush; and

(2) Dual-flush tank-type water closets shall have a maximum dual-flush effective volume of 1.28 gallons per flush; and

L. Water coolers included in the scope of the ENERGY STAR program's water coolers specification, version 2.0 shall have an on mode with no water draw energy consumption that is less than or equal to the following values as measured in accordance with the on mode with no water draw test mode specified in the water coolers specification:

(1) 0.16 kilowatt-hours per day for cold only units and cook and cold units;

(2) 0.87 kilowatt-hours per day for storage type hot and cold units; and

(3) 0.18 kilowatt-hours per day for on-demand hot and cold units.

.06 Effective Dates for Efficiency Standards Requirement.

A. The effective date for efficiency standards for products sold or offered for sale in the State and subject to Regulation .04A of this chapter is as follows:

(1) [Unit heaters: September 1, 2005;] Portable electric spas, air purifiers, commercial dishwashers, commercial steam cookers, faucets, residential ventilating fans, showerheads, spray sprinkler bodies, urinals, water closets; and water coolers: January 1, 2024.

[2] Low-voltage dry-type distribution transformers: March 1, 2005;

[3] Commercial refrigeration cabinets: August 1, 2005;

[4] Large packaged air-conditioning equipment: August 1, 2005.]

B. A product subject to Regulation .04A of this chapter may not be installed *for profit* after January 1, [2006] 2025.

.07 Petition for Delayed Implementation.

A. A [Maryland business or consumer] person may file a request with the Administration to delay the effective date of any standard adopted under this chapter if products conforming to a standard will not be widely available in Maryland by the effective date specified in Regulation .06 of this chapter.

B. The Administration may limit a delay to identifiable subcategories of any category of covered products.

C. The request shall:

(1) Be in writing; and

(2) State the length of the delayed implementation being requested and the reasons for the proposed delay, including any information the person filing the request relied upon to conclude that the product would not be widely available by the effective date.

D. Upon receipt of a request, the Administration shall issue a public notice of the proposed delay and solicit comment. The Administration may determine the most effective means to issue the notice and receive comment.

E. If, after public notice and comment, the Administration determines that the product conforming to the standard will not be widely available in Maryland, the Administration shall issue notice of the delay for implementing the standard in the Maryland Register and any other means the Administration determines is appropriate for the product being subjected to the delay.

F. The Administration may not delay the implementation of any standard by more than 1 year.

.08 Testing Procedures.

[The manufacturer of a product for which certification is required shall test each model of each product required under Regulation .04 of this chapter consistent with the testing standards established by the federal government in accordance with the requirements of the Energy Policy Act of 2005.] *All products subject to Regulation .04 of this Chapter shall be tested in accordance with the requirements of Regulation .05 of this Chapter.*

.09 Manufacturers' Certification of New Products.

A. Before the effective date of the applicable standard specified in Regulation .06 of this chapter and before a new product listed in Regulation .04 of this chapter may be sold in Maryland, a manufacturer of the new product shall [certify]:

(1) *Certify* to the Administration that the product is in compliance with the performance standard in Regulation .05 of this chapter; *or*

(2) *Certify product compliance by an alternative method including certification via the:*

(i) *California Energy Commission Modernized Appliance Efficiency Database System;*

(ii) *Northeast Energy Efficiency Partnerships State Standards Appliance Database;*

(iii) *federal ENERGY STAR program;*

(iv) *federal WaterSense Program; or*

(v) *an official state database or other nationally recognized database acceptable to the Administration.*

B. The manufacturer shall file with the Administration a statement that each covered product that is sold or offered for sale in Maryland complies with the requirements of the [Energy Efficiency Standards] Act. [The statement shall contain all the information described in §§D and E of this regulation and shall meet all the requirements of §C of this regulation and all other applicable requirements.

C. General Rules.

(1) *Format and Categories.* Each statement shall be in a format and in categories specified *and made publicly available* by the Administration. Specific information on these formats and categories may be obtained from the Administration.

(2) *When Different Statements are Required.*

D. *Manufacturer Information.* The statement shall contain the name, address, telephone number, fax number, and email address of the individual to contact concerning the statement.

E. *Testing and Performance Information.*

(1) The statement shall verify that each product has been tested in accordance with all applicable requirements.

(2) The statement shall contain the name, address, telephone number, fax number, website address, and email address of the laboratory or other institution where the testing was performed.

(3) Proof of testing pursuant to another state's certification program is acceptable to the Administration for this requirement if the other state's standards and requirements are substantially the same as this chapter. The Administration may request copies of materials related to this testing.

F. Any manufacturer that has certified a product to another state or to the federal Energy Star Program may provide the Administration with a copy of the certification that the manufacturer made to the other state or agency in place of a separate certification, if:

(1) The other state's standards or the Energy Star specifications are equivalent to or more stringent than the standards of Maryland; and

(2) All information required under §§D and E of this regulation is included in the certification.]

C. *The statement required under §B of this regulations shall:*

(1) *Shall be in a format and in categories specified and made publicly available by the Administration;*

(2) *verify that each product has been tested in accordance with all applicable requirements and specify the standard by which the product has been tested;*

- (3) Contain the name, address, telephone number, website address, and email address of the laboratory or other institution where the testing was performed;
- (4) Contain the name, address, telephone number, and email address of the individual to contact concerning the statement; and
- (5) Meet all other applicable requirements.
- D. The Administration may establish, modify, and enforce schedules for the submittal of statements for the orderly processing of submittals.

.10 Product Verification Testing by the Administration.

- A. To ensure compliance with adopted standards, the Administration may test products listed in Regulation .04 of this chapter to verify compliance with the relevant standard.
- B. If the product tested is not found to be in compliance with the minimum efficiency standards established under Regulation .05 of this chapter, the Administration shall:
- (1) Charge the manufacturer of the product for the cost of product purchase and testing; and
 - (2) Make information available to the public on products found not to be in compliance with the standards by appropriate means.

.11 Labeling.

- A. [Manufacturers of new products listed in Regulation .04 of this chapter shall identify each product offered for sale or installation, through retailers, in Maryland as being in compliance with the minimum efficiency standards established under Regulation .05 of this chapter by means of a mark, label, or tag consisting of the letter "M" within a circle not less than 1/2 inch in diameter on the product or packaging at the time of sale or installation. The mark, label or tag shall consist of the letter "M" within a circle. The circle may not be less than 1/2 inch in diameter.
- B. Labels may be permanently affixed or may be temporary or removable labels of any kind including hanging labels.
- C. All display models of products shall be displayed with a mark, label, or tag on the product.
- D. Manufacturers offering products for sale or installation in Maryland are not required to place a mark, label, or tag on a covered product, if a mark is already on the product or packaging that reflects that the product meets an efficiency standard at least equal to the one required by the Act.
- E. If a national efficiency standard is established by Federal law or regulation for a product, this labeling requirement does not apply to that product.] *Once a manufacturer has certified a new product as outlined in Section .09 of this chapter, a manufacturer may label the product as meeting the relevant minimum efficiency level outlined in Regulation .04 of this chapter.*
- (1) *The mark, label or tag shall consist of the letter "M" within a circle no less than 1/2 inch in diameter.*

.12 Inspection and Enforcement.

- A-C. (text unchanged)
- D. *The Administration may set up a process by which a person can notify the Administration of incidents of non-compliance with the provisions of this Regulation.*

.13 Fines for Noncompliance.

- A. The Administration may investigate [complaints received concerning] violations of Regulation .05 of this chapter and [shall report the results of an investigation] *may refer substantiated incidents of noncompliance to the Attorney General.*
- B-E. (text unchanged)
- F. *Nothing in this regulation shall limit the ability of the Administration to pursue alternative methods to correct noncompliance in lieu of referral to the Attorney General.*

.14 Waiver.

- A. *The Director of the Administration may waive or vary a particular provision of this chapter to the extent that a waiver is consistent with the Act or other applicable law.*
- B. *Nothing in this Regulation shall be construed to limit the ability of the Administrations to utilize a third-party vendor to complete any Administration function.*