

## Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: This regulation applies statewide, including all 44 rural counties with less than 200,000 inhabitants and the 71 towns in urban counties with a population density of 150 per square mile or less.

2. Reporting, recordkeeping and other compliance requirements; and professional services: Compliance with these regulations includes testing and certification requirements for manufacturers, and ensuring the compliant products are offered for sale, lease, or rent by distributors, retailers, and installers. Compliance with this regulation applies to products manufactured both within and outside of New York as long as they are sold within New York. The reporting, recordkeeping, and other compliance requirements are the same for any manufacturer in a rural, suburban, or urban area.

Manufacturer: All manufacturers with products sold within New York will need to ensure their products are tested and meet the standard levels established by this regulation, and certified to a database such as the State Appliance Standards Database (SASD) or the California Energy Commission Modernized Appliance Efficiency Database System (MAEDbS). These two databases have been designed specifically to certify compliance with state standards.

Since these product standards are already in place in at least one and as many as 13 other states, it is expected that most manufacturers of these products already list their compliant products in these databases. Various product standards set in this regulation directly align with standards already in place in California. Any manufacturers selling into the California market will already be listed on the MAEDbS in which case

additional testing or certification steps will not be necessary to comply with the regulations.

Similarly, the SASD started listing products in 2022 and is expected to list several product categories not included in MAEDbS for states such as Massachusetts where similar standards have already taken effect. Any manufacturers and products already listed on the SASD for other states' that align with the standards set by this regulation require no additional certification.

Any product not yet listed in these databases requires a manufacturer to first test their products utilizing the test procedures detailed in this regulation in order to verify that the performance of the products meets the relevant standard. Because compliant products are widely available and many of the standard levels are based on existing tested levels such as ENERGY STAR or a California Appliance Efficiency Standards, it is our expectation that most if not all manufactures are already testing their products to meet the standards levels.

If a manufacturer is not already certified to the SASD or MAEDbS, after the product is tested, manufacturers must set up user accounts online and upload product data or verify existing product data from another source such as ENERGY STAR. It is expected that establishing an account could take one hour of staff time, and uploading or approval of products could take between minutes to hours depending on the database and number of products. A conservative estimate concludes that manufacturers upload new product information monthly, with the first month taking an upper bound of three hours and each subsequent month taking one hour. This would result in an annual

conservative certification estimate of 15 hours for the first year for one staff for a given manufacturer, with subsequent years at most 12 hours per year.

Listing compliant products on either the SASD or the MAEDbS serves as the reporting or recordkeeping obligation for manufacturers; no other reporting is required. SASD and MAEDbS are developed for manufacturers to submit their data directly, however, professional services could be procured by the manufacturers to get their products listed in the databases.

Retailers, distributors, and installers: Retailers, distributors, and installers have a joint obligation of compliance for these standards as each must verify that the products they sell meet the standards. Both MAEDbS and SASD are designed to be public websites easily searchable by brand, product type, or model number. Retailers, distributors, and installers would be expected to spend 1-5 minutes per model number to search and verify compliance. These obligations would be the same for rural and non-rural businesses, although availability of internet access may vary as this is required for manufacturers to certify compliance, and for distributors, retailers and installers to verify compliance.

Retailers, distributors, and installers in rural areas will not be required to provide reporting or recordkeeping to prove compliance. Therefore, it is not expected that retailers, distributors, or installers will need to utilize any types of professional services to comply with this regulation. However, since the impact of this regulation will limit product models permitted for sale in New York, it may be more challenging for a rural retailer or installer to stock and sell compliant products that may otherwise be more widely available in more population dense parts of the state. However, given the wide

availability of compliant products with the same standards set in other states, it is not expected that availability of compliant products will be a significant barrier. Rural retailers and distributors have the option to hire a procurement specialist who ensures that all products purchased from manufacturers comply with the regulatory requirements.

3. Costs: The costs expected for rural manufacturers to comply with this regulation involve testing and certifying. It is expected that all products included in this regulation will already be tested for compliance with similar standards in other states or to earn ENERGY STAR or WaterSense recognition. However, if a product requires testing this could range from a one-time cost ranging from \$1,000 to \$20,000 per manufacturer per product. This is a significant range and includes estimates for product costs, shipping to a test facility, cost to test, and staff time to receive and review the test results. Since the average costs for products regulated by these standards ranges from as low as \$10 for a faucet to over \$10,000 for commercial kitchen equipment, the testing costs will vary significantly. Testing facilities are located across the US and therefore shipping costs are not expected to be more or less impacted for rural or non-rural areas.

For certification costs, while neither the SASD nor the MAEDbS have fees associated with listing products, they do require staff time. These staff time obligations are conservatively estimated at 15 hours for the first year and 12 hours for subsequent years per manufacturer. At an estimated rate of \$25/hour (based on the average annual New York State payroll per employee in the manufacturing industry of \$47,881 in 2016), the cost to comply could be \$375 per manufacturer in year one and \$300 per manufacturer in subsequent years. Manufacturer certification relies on internet access which may be more challenging to access in rural areas.

For rural retailers, distributors, and installers, there are not hard expenses in complying with this regulation, but there is an obligation to ensure that products being sold in New York are in compliance. At a conservative average rate of 5 minutes per product confirmation and estimate of 40 complaint products in need of confirmation (5-10 models offered in 4-8 product categories), and an estimated rate of \$25/hour (based on the average annual New York State payroll per employee in the trades sector of \$46,384 in 2016), that could amount to \$83 per retailer, distributor, or installer to ensure compliance. Depending on the size of the retailer, distributor, or installers' product offerings, this estimate may be at an annual or multiple-times-per year.

Furthermore, while manufacturers must certify their compliant products, retailers, distributors, and installers are obligated to only sell compliant products. For rural operations that may have infrequent purchases of any of the 21 products subject to this regulation, it is possible that a rural retailer, distributor, or installer may be more likely to end up with a backlog stock of products that are not compliant, especially as rural operations may have the ability to store larger volumes of product at a given time compared to an urban operation which may have stock space constraints but may serve more customers regularly purchasing products. In the case of leftover non-compliant stock, if the manufacture date of a product is before the compliance date with the standard, retailers, distributors, and installers will be allowed to sell through their remaining non-compliant products. Given this sell-through flexibility, it is not expected that rural retailers, installers, or distributors will be disproportionately impacted by any remaining stock issues.

4. Minimizing adverse impact: The enabling legislation for this regulation is structured to allow for sell through of non-compliant products in stock as long as they were manufactured before the effective date of this rule. This inherently minimizes the largest potential adverse impact expected in a rural area operation that may have a slower rate of sale for certain products than an urban area operation. Additionally, NYSERDA considered the approaches suggested by SAPA Section 202-bb(2) to minimize any adverse impact of the regulation on public and private sector interests in rural areas. Because of the nature of setting minimum performance compliance across products through New York, performance or outcome standards rather than design or input standards was not a feasible approach. Furthermore, since the products impacted by this rule have a significant supply chain outside of New York and compliant products are both widely available and have been selected based on cost-effectiveness, an exemption from the rule for impacted rural areas was not established. It is anticipated that if rural areas are not able to comply with the rule, they are either unaware of the rule and thus have not been adjusting their stocking or ordering practices in anticipation of compliance, or they lack access to online certification databases to confirm compliance with the regulations. While it is expected that the sell-through structure of the regulation will inherently minimize these adverse impacts, NYSERDA will consider alternate timetables for compliance on an as-needed basis.

Prior to the date that compliance with the regulation becomes effective, NYSERDA intends to direct education and outreach about this regulation to rural areas to help ensure they are informed and equipped to comply with the regulation when it becomes effective.

5. Rural area participation: Upon publication of the Notice of Proposed Rulemaking, NYSERDA will notify public and private interests in rural areas about the regulation and the opportunity for public comment, as well as publish a general notice of the proposed rulemaking.