

**Appliance Standards Awareness Project  
American Council for an Energy-Efficient Economy  
California Energy Commission**

Mr. Daniel Simmons  
Assistant Secretary  
Energy Efficiency and Renewable Energy  
U.S. Department of Energy  
1000 Independence Ave. SW  
Washington, DC 20585-0121

April 18, 2019

**Re: Enforcement Policy Statement – Certain consumer water heaters**

Dear Assistant Secretary Simmons:

This letter constitutes comments of the American Council for an Energy-Efficient Economy, the Appliance Standards Awareness Project, and the California Energy Commission regarding the REVISED draft Water Heater Definitions Enforcement Policy published by the Energy Efficiency Enforcement Policy Office on April 2, 2019. Like the original proposed enforcement policy, we continue to have serious concerns with this revised proposed policy, since it will increase energy use and energy bills, and could undercut U.S. manufacturers who produce products that comply with current standards.

We commend the Department for eliminating gas-fired water heaters over 55 gallons from the non-enforcement policy. However, in our opinion, the revised policy still violates the “anti-backsliding” provision in the Energy Policy and Conservation Act (EPCA) by creating two alternative standard options for electric storage water heaters over 55 gallons that are weaker than the current standard. Both of these options are also weaker (would save less energy) than the alternative standard proposed in the original proposed enforcement policy and thus move in the wrong direction.

We strongly urge the Department to drop the provision pertaining to units over 55 gallons storage capacity. If the Department does keep the provision, it should at least apply the approach used under the existing policy for all product sizes and under the proposed policy for products under 55 gallons, which limits the policy’s application to models certified prior to May 1, 2015 (proposed policy). The Department’s enforcement policy should not permit manufacturers to bring new water heaters to market designed to exploit this policy. To be clear, even with the limiting clause, we still would oppose the policy since it undermines existing standards and violates the statute’s anti-backsliding prohibition.

Regarding electric storage water heaters of 55 gallons and less, we appreciate how the Department is being clear that non-enforcement will sunset, but suggest moving the sunset date up by a year from December 31, 2021 to December 31, 2020 as manufacturers already have had several years of non-enforcement to prepare.

Please let us know if you have any questions about these comments.

Sincerely,

Steven Nadel  
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American Council for an Energy-Efficient Economy

David Hochschild  
*Chair*  
California Energy Commission

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