



This document is scheduled to be published in the Federal Register on 04/03/2015 and available online at <http://federalregister.gov/a/2015-07706>, and on FDsys.gov

[6450-01-P]

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE-2012-BT-STD-0022]

RIN: 1904-AC78

Energy Conservation Program for Consumer Products: Energy Conservation Standards for Residential Water Heaters

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Proposed rule; withdrawal.

SUMMARY: The U.S. Department of Energy (DOE) withdraws a proposed rule published in the **Federal Register** on February 26, 2013 that proposed to establish a waiver process to allow the manufacture and sale of certain large-volume (>55 gallon) electric storage water heaters under 1-year waivers granted by DOE, provided that a specific set of features are included and conditions are met to ensure their use only in residences enrolled in utility electric thermal storage (ETS) programs.

DATES: The proposed rule published on February 26, 2013 at 78 FR 12969 is withdrawn as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Authority

Title III, Part B¹ of the Energy Policy and Conservation Act of 1975 (“EPCA” or “the Act”), Pub. L. 94-163 (42 U.S.C. 6291-6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles.² These products include residential water heaters (RWH), the subject of this document. (42 U.S.C. 6292(a)(4))

II. Background

The National Appliance Energy Conservation Act of 1987 (NAECA; Pub. L. 100-12) amended EPCA to, among other things, establish energy conservation standards for residential water heaters. (42 U.S.C. 6295(e)(1); 42 U.S.C. 6295(e)(4)) DOE initially amended the statutorily prescribed standards for water heaters in a final rule published on January 17, 2001. 66 FR 4474 (Jan. 17, 2001). Subsequently, DOE amended the residential water heater standards a second time in another final rule published on April 16, 2010 (hereinafter known as the April 2010 final rule). 73 FR 20112 (April 16, 2010).

The energy conservation standards for residential water heaters adopted in the April 2010 final rule will apply to products manufactured on or after April 16, 2015. 75 FR 20234 (April 16, 2010). The amended energy conservation standards consist of

¹ For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

² All references to EPCA in this document refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA), Pub. L. 112-210 (Dec. 18, 2012).

minimum energy factors³ (EF) that vary based on the rated storage volume of the water heater, the type of energy it uses (i.e., gas, oil, or electricity), and whether it is a storage, instantaneous, or tabletop model. 10 CFR 430.32(d) Of particular relevance to this notice, electric water heaters with a rated storage volume above 55 gallons (referred to hereinafter as “large-volume” electric storage water heaters) will be required to have an energy factor of at least $2.057 - (0.00113 \times \text{Rated Storage Volume in gallons})$. Id. Such a level is currently achievable only by using heat pump water heater technology and cannot be achieved in electric water heaters that rely solely on electric resistance elements.

Subsequent to the publication of the April 2010 final rule, several stakeholders indicated to DOE their concerns about the interaction of the amended standards in the April 2010 final rule and the use of large-volume electric storage water heaters in utility ETS programs. To gather additional information on the impact of the amended standard established in the April 2010 final rule on ETS programs that use large-volume electric storage water heaters, DOE issued a request for information (RFI) and received numerous additional comments on these topics. 77 FR 35299 (June 13, 2012). After considering comments submitted by interested parties, DOE published a notice of proposed rulemaking (NOPR) proposing to establish a waiver process to allow any manufacturer, utility, or a combination of the two to request a waiver granting an exemption from the amended energy conservation standards established in the April 2010 final rule for

³ Energy factor is a measure of overall water heater efficiency that accounts for efficiency during active, standby, and cyclical operation.

certain large-volume electric storage water heaters used in an ETS program. 78 FR 12969 (Feb. 26, 2013). As proposed, each waiver would have allowed manufacturers to produce, for a 1-year period, a limited number of large-volume electric storage water heaters that would not otherwise meet the April 2010 amended standard levels, provided that a specific set of features are included and conditions are met to ensure their use exclusively in utility ETS programs. More information on DOE's waiver proposal and stakeholder feedback can be found in the rulemaking docket.⁴

III. Discussion

By this document, DOE withdraws its February 26, 2013 NOPR. DOE commissioned a study to examine the capability of large-capacity water heaters, both resistance and heat pump, to support ETS programs and found both water heater types worked for such programs. For additional discussion of the capability of using large-volume electric storage water heaters that meet the April 2010 amended standard levels to support utility ETS programs, see the following reports:

http://www.pnnl.gov/main/publications/external/technical_reports/PNNL-23527.pdf and
http://www.pnnl.gov/main/publications/external/technical_reports/PNNL-23697.pdf.

⁴ <http://www.regulations.gov/#!docketDetail;D=EERE-2012-BT-STD-0022>

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this withdrawal.

Issued in Washington, DC, on March 26, 2015

Roland Risser
Acting Deputy Assistant Secretary for Energy
Efficiency
Energy Efficiency and Renewable Energy
[FR Doc. 2015-07706 Filed: 4/2/2015 08:45 am;
Publication Date: 4/3/2015]