

**COMMENTS OF THE ATTORNEYS GENERAL OF NEW YORK, COLORADO,
CONNECTICUT, ILLINOIS, MAINE, MARYLAND, MINNESOTA, NEVADA,
OREGON, VERMONT, WASHINGTON, THE COMMONWEALTH OF
MASSACHUSETTS, THE COMMONWEALTH OF PENNSYLVANIA,
THE DISTRICT OF COLUMBIA, AND THE CITY OF NEW YORK**

September 25, 2023

Submitted via e-mail:

ConsumerWaterHeaters2017STD0019@ee.doe.gov

Appliance and Equipment Standards Program
Building Technologies Office
U.S. Department of Energy

**Re: Energy Conservation Standards for Consumer Water Heaters – Notice of
Proposed Rulemaking and Request for Comment
Docket No. EERE-2017-BT-STD-0019
RIN 1904-AD91**

The undersigned offices of state attorneys general and local governments submit these comments in strong support of the U.S. Department of Energy’s (DOE) proposed energy efficiency standards for consumer water heaters. 88 Fed. Reg. 49,058 (July 28, 2023). As governmental entities committed to reducing energy-related costs, including ratepayer costs and the negative impacts of greenhouse gas emissions and other pollutants, we endorse stringent, cost-effective energy efficiency standards for consumer appliances. Water heaters are a major energy user in most homes,¹ and these proposed standards are reasonably calculated by DOE to net consumers billions of dollars of savings on their energy bills and significantly reduce emissions that contribute to climate change. We therefore urge DOE to promptly finalize its proposed consumer water heater standards.

DOE’s proposed standards, if finalized, would take effect in 2029 and improve the efficiency of both electric and gas water heaters. According to DOE’s analysis, the lifetime energy savings for consumer water heaters purchased between 2030-2059 (“the compliance period”) amount to 27 quadrillion British thermal units (BTUs), or quads, a 21 percent savings in energy use for these products compared to the case without amended standards. *See* 88 Fed. Reg. at 49,062. And the cumulative net present value of total consumer benefits from the proposed standards is estimated by DOE to be between \$56 billion and \$161 billion. *Id.* Consistent with its obligations under the Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.* (EPCA), DOE has amply demonstrated that these proposed standards would save a

¹ According to DOE, water heating accounts for approximately 18% of a home’s energy use and typically is the second largest energy expense in any home. *See* <https://www.energy.gov/energysaver/water-heating#:~:text=Water%20heating%20accounts%20for%20about,thermostat%20on%20your%20water%20heater>.

significant amount of energy and that they represent the maximum improvement in energy efficiency that is both technologically feasible and economically justified. 42 U.S.C. § 6295(o)(2)(A).

Along with such improvements in energy efficiency, DOE's proposed consumer water heater standards are projected to yield significant environmental benefits. DOE estimates that over the compliance period cumulative emission reductions would be achieved that amount to 501 million metric tons of carbon dioxide, 143 thousand tons of sulfur dioxide ("SO₂"), 988 thousand tons of nitrogen oxides ("NO_x"), 4541 thousand tons of methane, 46 thousand tons of nitrous oxide, and 1 ton of mercury. 88 Fed. Reg. at 49,062. The monetized health benefits of these SO₂ and NO_x emission reductions alone are estimated by DOE to have a present value of between \$17 billion and \$49 billion. *Id.* In addition, DOE projects that reduced emissions resulting from the proposed standards will have significant climate benefits, monetized at \$25 billion, or over \$1.4 billion annually. *Id.* at 49,062-064.²

The proposed standards appropriately reflect DOE's detailed analysis of consumer life cycle costs and payback periods for each identified water heater product class. *Id.* at 49,136-142. Similarly, DOE thoroughly analyzed the economic impact on consumer water heater manufacturers across different product classes. *See id.* at 49,142-48. And in determining the proposed standards for each product class, DOE compared the benefits and burdens associated with different efficiency levels, and reasonably balanced manufacturer and consumer impacts. *Id.* at 49,148-163. Consistent with EPCA, DOE's analysis demonstrates that the proposed standards represent the maximum improvement in energy efficiency that is technologically feasible and economically justified.

Because of federal funding available under the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (2021) and the Inflation Reduction Act, Pub. L. No. 117-169 (2022), the nation's transition to more efficient consumer water heating will be increasingly cost-effective and affordable. For low- to moderate-income households and small businesses, Congress' multibillion-dollar investment in weatherization, energy efficiency and beneficial electrification programs will help address cost concerns related to installing new or replacement equipment. Notably, the Inflation Reduction Act provides generous rebates and tax credits for more efficient electric water heaters. *See* P.L. 117-169, § 13301 (Energy Efficiency Home Improvement

² DOE calculates these climate benefits using "the interim estimates presented in the Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990 published in February 2021 by the Interagency Working Group on the Social Cost of Greenhouse Gases (IWG)." 88 Fed. Reg. at 49,064; *see id.* at 49,130-134. These monetized benefits, while further supporting adoption of the proposed standards, likely underestimate the full climate benefits associated with reduced emissions because of benefits not yet monetized, including for example benefits associated with mitigating more frequent and intense wildfires. Consistent with Office of Management and Budget direction that agencies engage in "careful evaluation of non-quantified benefits and costs" (*see* OMB Circular A-4 at 26-27), we recommend that when DOE considers climate benefits it should also identify such non-quantified benefits.

Credit); § 50122 (High Efficiency Electric Home Rebate Program).³ And as DOE correctly points out, such Inflation Reduction Act programs support expanded markets for these products. *See* 88 Fed. Reg. at 49,158.

Thank you for the opportunity to comment on DOE’s proposal. These comments reflect our continued interest in DOE’s energy efficiency rulemakings, and our support of robust efficiency standards for water heaters and other consumer products. *See, e.g.*, 87 Fed. Reg. 40,699 (referencing *State of New York, et al. v. Department of Energy, et al.*, Nos. 08-0311-ag(L); 08-0312-ag(Con) (2nd Cir. filed Jan. 17, 2008)) (challenging residential furnace standards under EPCA); Multistate Comments Regarding Furnace Interpretive Rule (Oct. 12, 2021) available at <https://www.regulations.gov/comment/EERE-2018-BT-STD-0018-0136>; *New York, et al. v. Granholm, et al.*, No. 20-cv-9362-JMF, Doc. 70 (2nd Cir. filed Sept. 20, 2022) (Consent Decree in DOE missed EPCA deadlines litigation). Accordingly, we request that DOE expeditiously adopt the proposed consumer water heater standards and encourage DOE to continue to explore opportunities for improved energy efficiency.

Respectfully submitted,

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³ As explained by the Appliance Standards Awareness Project, electric tank water heater models employing more efficient heat pump technology deliver hot water in a more cost-effective manner, using significantly less energy and thereby reducing consumer energy bills. *See* Appliance Standards Awareness Fact Sheets, *Technology Brief: Water Heaters Meeting the Proposed DOE Standards* (July 26, 2023); and *Proposed Water Heater Efficiency Standards Would Save Many Households More than \$200 Each Year and Slash Climate Pollution* (July 27, 2023), available at <http://appliance-standards.org/fact-sheet>. *See also* 88 Fed. Reg. at 49,075 (referencing DOE March 2022 Preliminary Analysis of water heater standards and comments by New York State Energy Research and Development Authority noting significant cost and efficiency improvements over past decade in heat pump water heaters).

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