

Department of Energy Final Rule on Residential Gas-Instantaneous Water Heaters

Consumer Choice and Flexibility is Maintained

Final Rule Overview

- The Department of Energy (DOE) finalized a rule on December 26 covering gas-instantaneous-water-heaters (i.e., gas tankless water heaters) setting new minimum efficiency standards for these products. The new standards include:
 - a new high efficiency “condensing” standard for some size of gas tankless water heaters; and
 - a new lower (i.e., non-condensing) efficiency standard for other sizes of gas tankless water heaters.
- Water Heater Manufacturers have five years to prepare and invest in manufacturing capacity to meet the standard, with the new rule setting a December 2029 compliance date.
- Under the gas tankless water heater final rule consumers will still have the choice to purchase a gas tankless water heater that fits their needs.
- The Energy Policy Conservation Act (EPCA), which governs setting minimum efficiency standards for certain appliances, like water heaters, prohibits the DOE from setting standards that ban a product based on its fuel source (e.g., gas, propane, electric).
- DOE’s gas tankless final rule allows both condensing and non-condensing gas tankless water heaters.

CRA undermines EPCA Preemption

- EPCA contains a federal preemption clause that prohibits states and local governments (like California and New York) from setting different efficiency standards than ones that DOE sets.
- EPCA’s preemption clause provides manufacturers with a national standard, which gives them the business certainty they need. The clause was included **for** manufacturers so that OEMs would not have to make different products for each state.
- A successful CRA petition will undermine EPCA’s federal preemption protection for manufacturers and simply shift efficiency standard setting for these products to California and other states.

Broad Industry Support

- DOE’s final rule for gas tankless water heaters has been years in the making with multiple opportunities for water heater manufacturers and other stakeholders to participate and comment to DOE.
- There is broad industry support for the final rule.

Manufacturer Remedies

- If a manufacturer believes a DOE final rule is unlawful, then a court of law is the proper venue to challenge the rule.
- Manufacturers can also work with the Congress to amend EPCA to right-size and modernize the law to address long-term issues.