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February 18, 2013

Ms. Brenda Mallory
General Counsel (Acting)
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
MC 2310A
Washington, DC 20460

Subject: Commercial Water Heater ENERGY STAR® Version 1.0 Updated Final Draft Specification

Dear Ms. Mallory,

Rheem Manufacturing Company (Rheem) is headquartered in Atlanta, Georgia and operates multiple facilities in the United States for the manufacture or support of residential and commercial air conditioners, furnaces, water heaters, boilers, and heat pump pool heaters. Thus Rheem has a direct interest in EPA's ENERGY STAR® Water Heater Product Specification for Commercial Water Heaters, as this specification affects Rheem's manufacturing, product marketing and distribution processes for commercial water heaters. Rheem supports EPA's efforts in the development of this first generation (Version 1.0) specification, and has been an active stakeholder throughout EPA's process in developing the Version 1.0 specification.

With reference to the attached EPA document (ENERGY STAR Program Requirements; Product Specification for Commercial Water Heaters; Eligibility Criteria; Version 1.0: Updated Final Draft), we write to express our concern regarding the note on page 5 (lines 178-183), which addresses the effective date for the specification.

In this note, EPA indicates that the introduction of a new specification does not call for an effective date that provides a transition period enabling lead time for manufacturers. Through the Energy Policy Act of 2005, Congress amended the Energy Star Program to require EPA and DOE to provide lead time *prior to* the effective date of a new *or* revised specification. This requirement is codified in 42 USC § 6294a(c)(7):

(c) Duties

The Administrator and the Secretary shall--...

(7) provide appropriate lead time (which shall be 270 days, unless the Agency or Department specifies otherwise) prior to the applicable effective date for a new or a significant revision to a product category, specification, or criterion, taking into account the timing requirements of the manufacturing, product marketing, and distribution process for the specific product addressed. (emphasis added)

Under 42 USC § 6294a(c)(7), a 270 day lead time (9 months) must be given prior to the applicable effective date for a new specification, or a lead time of another duration may be provided if EPA or DOJ so specifies. The established lead time must be based on “the timing requirements of the manufacturing, product marketing, and distribution process” for the applicable product. An immediate effective date does not provide for lead time. As proposed, EPA is requiring an immediate effective date for the Version 1.0 ENERGY STAR® Water Heater Product Specification for Commercial Water Heaters in disregard of the appropriate lead time requirement in 42 USC § 6294a(c)(7). Further, EPA has provided no evidence that it took into account “the timing requirements of the manufacturing, product marketing, and distribution process” for commercial water heaters in setting the effective date.

The Air-Conditioning, Heating, and Refrigeration Institute (AHRI), a 300-member trade association representing manufacturers of air conditioning, space heating, water heating and commercial refrigeration equipment, facilitated discussions with its members on the appropriate lead time needed for compliance. The industry consensus, after discussion and balloting, is 270 days. We respectfully request that EPA adopt this lead time, a lead time that complies with law and which takes into account the timing industry needs to adjust manufacturing, product marketing, and distribution processes. In the alternative, if EPA selects a different lead time, we request that EPA explain how it has considered the timing for manufacturing, product marketing, and distribution process adjustments required for manufacturers to comply with the new specification.

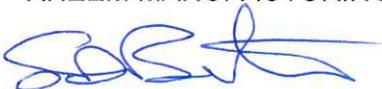
An immediate effective date is harmful to employers, including for a business like ours that seeks to compete in the commercial water heater marketplace. Adopting a transition period is vital to enabling manufacturers in the US to more efficiently meet the new specification while striving to compete in the marketplace and employ Americans in the manufacture of world-class products designed to increasingly meet the needs of consumers and improve the climate.

Attached for your reference are the most recent comments provided by Rheem and AHRI addressing the transition period for the Version 1.0 ENERGY STAR® Water Heater Product Specification for Commercial Water Heaters. These letters seek clarification from EPA on its position with regard to the implementation period, but no explanation has been provided. A copy of 42 USC §6294a is also attached for your reference.

Thank you for the opportunity to comment. Rheem Manufacturing Company works to maintain a significant presence in the U.S. water heating industry and an innovative path towards the advancement of water heating technology. We remain committed to serving as an active participant in the ENERGY STAR® program and appreciate the opportunity to work with you on matters, such as this, that are intended to help further the successful implementation of the program for employers, consumers, and the public in the most optimal manner.

Sincerely,

RHEEM MANUFACTURING COMPANY



Scott Bates
Corporate Vice President and General Counsel

cc: Ms. Ann Bailey
Ms. Abigail Daken

Attachments