

MEMORANDUM

TO: Ex parte communications, U.S. Department of Energy
FROM: Timothy Ballo, Earthjustice
DATE: June 18, 2013
RE: Efficiency Advocates' Ex Parte Communication with DOE on June 11, 2013

Meeting/Teleconference summary

Attendees:

Timothy Ballo – Earthjustice
Dan Cohen – DOE
John Cymbalsky – DOE
Ben Longstreth – Natural Resources Defense Council
Steve Nadel – American Council for an Energy Efficiency Economy
Roland Risser – DOE
Robin Roy – Natural Resources Defense Council
Harvey Sachs – American Council for an Energy Efficiency Economy
Charlie Stephens – Northwest Energy Efficiency Alliance

Issues Discussed:

The attendees identified above met on June 11, 2013, to discuss DOE's proposed rulemaking to allow waivers from energy conservation standards for large (>55 gallon) residential electric storage water heaters used in demand response and thermal energy storage programs (Docket No. EERE-2012-BT-STD-0022). The efficiency advocates expressed concern that the proposed rule does not meet the Department's legal obligations and does not provide any analysis of the impact of allowing waivers. In addition, efficiency advocates specifically addressed the following:

- The need for DOE to analyze the consumer, energy, and environmental effects of any proposed waivers;
- The ability of well-controlled "hybrid" (with resistance elements for back-up and/or higher temperature operation) heat pump water heaters to serve energy thermal storage applications without the need for a waiver from energy conservation standards;
- The effectiveness of heat pump water heaters in cold climates; and
- The potential for Congress to take action to address the waiver issue.

In response to a question from the Department, the advocates also suggested possible benchmarks for a limited waiver program, without conceding that such a program would be warranted or lawful. To provide a more complete response, the American Council for an

Energy Efficient Economy is providing with this memo its brief supplemental comments on this topic and an accompanying spreadsheet.

Finally, the efficiency advocates informed DOE of the possibility that one or more of the advocates may subsequently file, jointly with other interested stakeholders, supplemental comments recommending further analyses and/or procedural safeguards that would be most helpful in addressing the commenters' concerns.