

WSR 21-22-069

EMERGENCY RULES

DEPARTMENT OF COMMERCE

[Filed October 29, 2021, 9:07 a.m., effective November 1, 2021]

Effective Date of Rule: November 1, 2021.

Purpose: Commerce received a request from a water heater manufacturer on September 29, 2021, to temporarily suspend the water heater appliance standards rule (WAC 194-24-180) due to economic and supply chain disruptions resulting from the COVID-19 pandemic, which are impeding manufacturers from obtaining parts for the modular communications port (CTA-2045) required under this rule. Following a public comment period with participation from manufacturers, installers, energy efficiency organizations, environmental organizations, and electric utilities, commerce concludes that suspension of the rule's effective date is in the public interest.

Citation of Rules Affected by this Order: Amending WAC 194-24-180.

Statutory Authority for Adoption: Chapter 19.260 RCW.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The economic disruptions resulting from the COVID-19 pandemic continue to stymie global supply chains, preventing manufacturers from accessing critical materials required for manufacturing the electronic communication ports. These disruptions are already affecting the supply of compliant heat pump water heaters, which are primarily installed in new buildings, and can be expected to escalate in January 2022 when standard resistance water heaters would become covered by the standard.

The current effective dates in the rule, combined with these supply chain constraints, are already causing the installation of resistance water heaters over heat pump water heaters. This harms the state's ability to keep consumer prices low and conserve energy, due to resistance water heaters' diminished energy efficiency. Absent this suspension, when the rule for resistance heaters goes into effect the general welfare of the state will foreseeably be impaired due to no or diminished availability of water heater options for consumers and related impacts to energy conservation and efficiency.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 29, 2021.

Dave Pringle

OTS-3425.1

AMENDATORY SECTION (Amending WSR 20-03-013, filed 1/6/20, effective 2/6/20)

WAC 194-24-180 Electric storage water heaters. (1) **Scope.** This rule applies to new electric storage water heaters manufactured on or after January 1, 2021. The effective date of the rule is suspended until ((January)) March 1, 2022((, for electric storage water heaters other than heat pump type water heaters)).

(2) **Standard.** Electric storage water heaters must have a modular demand response communications port compliant with:

(a) The March 2018 version of the ANSI/CTA-2045-A communication interface standard, or a standard determined by the department to be equivalent; and

(b) The March 2018 version of the ANSI/CTA-2045-A application layer requirements.

The interface standard and application layer requirements required in this subsection are the versions established in March 2018.

(3) Upon written request by a manufacturer, the department will determine whether an alternative communications port and communication interface standard are equivalent for the purposes of subsection (2) of this section.

(a) Any requested alternative must use a standard that is open and widely available and must provide the demand response functions provided using the standards identified in subsection (2) of this section.

(b) A request for designation of a standard must provide technical documentation demonstrating that the standard satisfies the requirements in (a) of this subsection and must describe any industry or stakeholder process used in developing the standard. The department will provide reasonable opportunity for input by utilities, manufacturers, technical experts and other interested stakeholders prior to determining whether the proposed standard is equivalent. The department will make available on a publicly accessible website any standard that it determines to be equivalent.

(4) **Testing.** There is no test method required for this product.

(5) **Listing.** There is no listing requirement for this product.

(6) **Marking.** Every unit of every electric storage water heater must have a label or marking indicating compliance with the standard in this section. The format and content of the label or marking must be approved in advance by the department.

[Statutory Authority: RCW 19.260.070. WSR 20-03-013, § 194-24-180, filed 1/6/20, effective 2/6/20.]