

Enforcement Policy Statement—General Service Lamps

Issued: April 26, 2022

In an exercise of its enforcement discretion, the U.S. Department of Energy (DOE) announces a delayed and progressive enforcement model for addressing noncompliance with general service lamp (GSL) standards.

Background:

DOE recently published two new final rules related to general service lamps. One expands the definition of GSL and general service incandescent lamp (GSIL) (“the definitions rule”). Another imposes a sales prohibition of 45 lumens per watt on all GSLs (“the backstop rule”), including those lamps newly considered a GSL, which includes GSILs. The definitions rule goes into effect 60 days after publication in the Federal Register. The backstop rule goes into effect 75 days after publication in the Federal Register.

DOE developed this enforcement policy to promote fairness in light of the agency’s delays in promulgating the definitions and backstop rules. DOE reviewed industry comments on the manufacturing, shipping, and sell-through times needed for transition to compliance with the definitions and backstop rules. DOE then conducted its own analysis of industry’s lead time needs. DOE also reviewed comments from other stakeholders promoting immediate enforcement or enforcement within a limited timeframe to expedite consumer cost-savings and carbon emissions reductions. Notably, some industry-proposed timeframes were similar to timeframes proposed by stakeholders advocating for expedited compliance. Given all of these considerations, DOE tailored this progressive enforcement model to provide transparency regarding the agency’s expectations for compliance and to accommodate the many interests protected by statute. The timeline below for enforcement flexibilities is based on industry comments, other stakeholder comments, and DOE’s analysis.

Generally, the Department seeks the maximum civil penalty against manufacturers and private labelers that knowingly distribute in commerce products or equipment that violate the federal energy or water conservation standards. DOE believes the maximum penalty is both appropriate and necessary, as such violations directly undermine the Energy Policy and Conservation Act (EPCA) regulatory regime and prevent consumers from realizing the energy and cost savings intended by the energy conservation standards program. During this period of enforcement flexibilities, however, DOE plans to exercise its enforcement discretion to offer limited leniency, Warning Notices, and/or reduced penalties while industry transitions to the new GSL definitions rule and the GSL backstop rule. That said, DOE will pursue enforcement to the fullest extent of the law for egregious violations, repeat violations, or as circumstances dictate.

Scope:

This policy applies to compliance requirements with all lamps covered by the GSL definitions rule and the GSL backstop rule. Nonetheless, all lamps must, at minimum, comply with

conservation regulations (under 10 C.F.R. § 430.32) and certification requirements in effect before the GSL definition and backstop rules. For lamps that fall below these conservation standards, DOE may exercise its discretion to take enforcement action without considering the enforcement flexibilities below.

Application:

Although DOE reserves its discretion to consider new facts in individualized circumstances, in general, DOE intends to begin enforcement with manufacturers, including importers, and private labelers. DOE thus provides certain enforcement flexibilities following the effective date of the statutory backstop for GSLs, while reserving its discretion to evaluate the facts and circumstances impacting individual manufacturers, importers, and private labelers. Subject to this provision, DOE’s anticipated enforcement flexibilities are presented in the table below.

DOE intends to pursue violations by distributors and retailers using the same enforcement transition stages along with its discretion. However, the timeline for these entities is more gradual to allow first for the transition of existing inventory, while manufacturers, including importers, transition their production and shipments in 2022. Thus, the progressive enforcement approach as illustrated in the table below will be adjusted by seven months for distributors and retailers, beginning with warning notices in January 2023, progressing to reduced penalties two months later, and culminating in full enforcement in July 2023. DOE notes that DOE may, however, contact entities during the transition stages, including distributors or retailers, to obtain information as part of an investigation. Finally, very small retailers should contact DOE for additional flexibilities regarding their inventory.

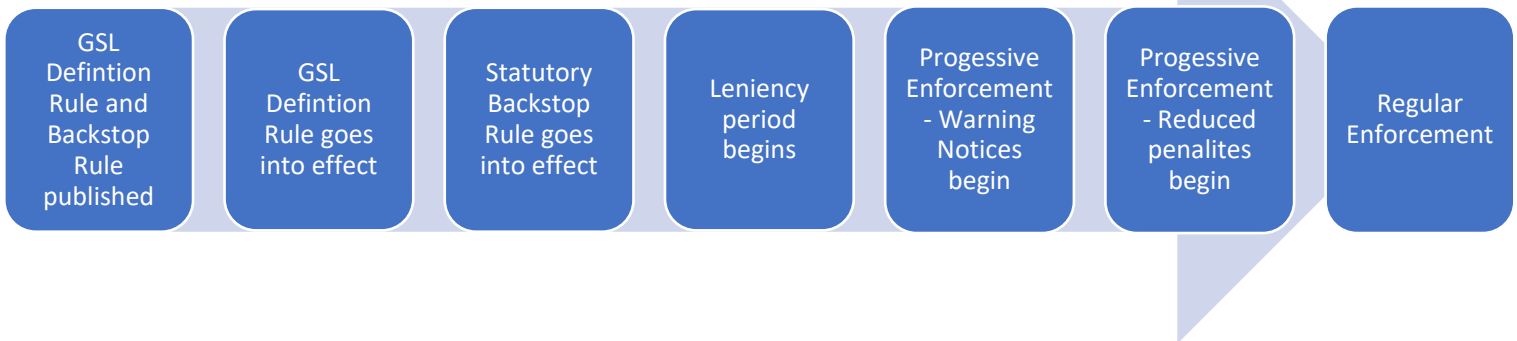
DOE will not undertake enforcement activities for newly defined GSLs until after the effective date of the backstop rule.

Enforcement Flexibilities for Manufacturers (Including Importers) and Private Labelers

Production Date for U.S. Manufacture or Date of Entry for Imports	Period of Transition	Explanation
Beginning effective date of the backstop rule through August 31, 2022	Enforcement leniency period	Enforcement Discretion: Leniency to account for transition lead times*
September 1, 2022, through October 31, 2022	Progressive enforcement	Enforcement Discretion: Warning Notices in consideration of transition lead times*
November 1, 2022, through December 31, 2022		Enforcement Discretion: Reduced penalties in consideration of transition lead times*
Beginning January 1, 2023	Enforcement flexibilities end	Full enforcement of the GSL backstop rule

*DOE will exercise its enforcement discretion to the fullest extent of the law for egregious violations, repeat violations, or as circumstances dictate.

Enforcement Transition Stages



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