



AMERICAN PUBLIC GAS ASSOCIATION



February 16, 2021

Dr. Stephanie Johnson  
U.S. Department of Energy  
Office of Energy Efficiency and Renewable Energy  
Building Technologies Office, EE-5B  
1000 Independence Avenue SW  
Washington, DC 20585-0121

Submission via [regulations.gov](https://www.regulations.gov)

**Re: Comments Pertaining to the Office of Energy Efficiency and Renewable Energy's Notice of Proposed Determination and Request for Comments for Energy Conservation Standards for Direct Heating Equipment [Docket Number EERE-2019-BT-STD-0002]**

Dear Dr. Johnson:

The American Public Gas Association (APGA) and the American Gas Association (AGA) appreciate the opportunity to provide comments in response to the Department of Energy's (DOE) Office of Energy Efficiency and Renewable Energy's (EERE's) notice of proposed determination (NOPD) pertaining to energy conservation standards (ECSs) for direct heating equipment (DHE), which appeared in the Federal Register on December 1, 2020.<sup>1</sup> Although not appliance manufacturers, our members provide the energy needed to fuel gas-fired DHE, making natural gas utilities a critical stakeholder in this work.

APGA is the trade association for approximately 1,000 communities across the U.S. that own and operate their retail natural gas distribution entities. They include municipal gas distribution systems, public utility districts, county districts, and other public agencies, all locally accountable to the citizens they serve. Public gas systems focus on providing safe, reliable, and affordable energy to their customers and support their communities by delivering fuel to be used for cooking, clothes drying, and space and water heating, as well as for various commercial and industrial applications.

The American Gas Association, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 76 million residential, commercial and industrial natural gas customers in the U.S., of which 95 percent — more than 72 million customers — receive their gas from AGA members. AGA is an advocate for natural gas utility companies and their customers and provides a broad range of programs and services for member natural gas pipelines, marketers, gatherers, international natural gas companies, and industry associates. Today, natural gas meets more than thirty percent of the United States' energy needs.<sup>2</sup>

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<sup>1</sup> 85 Fed. Reg. 77017 (2020).

<sup>2</sup> For more information, please visit [www.aga.org](http://www.aga.org).

## 1. Vented Heaters

In the NOPD, DOE examined each product class of vented heaters: gas wall fan type, gas wall gravity type, gas floor, and gas room. For gas floor vented heaters, DOE tentatively concluded that amended standards are not currently needed, reasoning that more stringent standards are not technologically feasible, and that no conservation of energy is possible from including them. For the remaining product classes, DOE tentatively determined that amended standards are also not needed, as they would not result in a significant conservation of energy<sup>3</sup> nor would they be economically justified – both of which are sufficient on their own under the Energy Policy and Conservation Act (EPCA) to support a determination that no new standards are needed.

APGA and AGA note that the determinations in the NOPD are consistent with the requirements of the Process Rule<sup>4</sup> regarding the evaluation of significant energy savings. As noted in the NOPD, in determining whether amended standards are needed, DOE must consider whether potential standards would result in significant conservation of energy.<sup>5</sup> DOE recently defined a significant energy savings threshold in the Process Rule. Specifically, DOE prescribed a two-step approach that considers both a quad threshold value, *i.e.*, for site energy savings calculated over a 30-year period, and a percentage threshold value, *i.e.*, for percentage reduction in energy usage to ascertain whether a potential standard satisfies the requirement of 42 U.S.C. 6295(o)(3)(B) that DOE may not set a standard that “will not result in significant conservation of energy.”<sup>6</sup> If neither threshold is met, the analysis will end, and DOE will propose to determine that no significant energy savings would likely result from setting new or amended standards.

APGA and AGA support the NOPD’s conclusion that both the quad and percentage thresholds are not met.<sup>7</sup> Therefore, the amended standards would not result in significant conservation of energy, by the definition set by the DOE noted above. As DOE states in the NOPD:

Based on its analysis, DOE estimated that for gas wall fan type vented heaters, gas wall gravity type vented heaters, and gas room vented heaters, potential site energy savings from more-stringent standards at the max-tech level would be 0.13 quads, which is less than quad threshold value of 0.3 quads. As the quad threshold value was not met at max-tech, DOE next considered the percentage threshold. DOE again referred to the analysis conducted for the April 2010 final rule and estimated that the reduction in site energy use under an energy conservation standard at the max-tech level would be six percent, which is less than the percentage threshold of 10 percent. As both the quad and percentage thresholds are not met, DOE has tentatively determined that amended standards would not result in significant conservation of energy. This tentative conclusion, if confirmed after review of public comments, would

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<sup>3</sup> The NOPD discusses the two-step approach EERE used in determining whether a potential ECS satisfies EPCA’s requirement for an amended standard to result in significant conservation of energy, an analysis mandated by the recently updated Process Rule. 85 Fed. Reg. 8626 (Feb. 14, 2020).

<sup>4</sup> 85 Fed. Reg. 8626 (Feb. 14, 2020); *see also* 10 CFR part 430, subpart C, appendix A.

<sup>5</sup> 42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2).

<sup>6</sup> *Id.*

<sup>7</sup> 85 Fed. Reg. 77017 at 77037.

be sufficient on its own under EPCA to support a determination that the energy conservation standards for DHE do not need to be amended.<sup>8</sup>

The aforementioned supports a determination that the energy conservation standards for DHE do not need to be amended. APGA and AGA further support the NOPD's conclusion that the market for DHE is declining and that product lines are mainly maintained as replacements for existing vented heater units, and that new product lines generally are not being developed.<sup>9</sup>

APGA and AGA also supports the NOPD's determination that a potential amended standard is not cost-effective.<sup>10</sup> As DOE states in the NOPD:

To assess the impact of energy prices, DOE compared the April 2010 final rule's average energy prices for 2013 (i.e., the starting year in the analysis) to a likely starting year if DOE performed a revised analysis in a new rulemaking. The April 2010 final rule used Energy Information Administration's (EIA) Annual Energy Outlook (AEO) 2010 energy price trends. To assess the impact of updated energy price estimates, DOE used EIA's AEO 2020 energy price trends to estimate the energy prices in 2027, the expected compliance year for the updated analysis. DOE has found that both natural gas and propane prices are significantly lower in 2027 (\$10.99/MMBtu in 2019\$ and \$28.20/MMBtu in 2019\$, respectively) compared to the 2013 natural gas and propane prices used in the April 2010 final rule (\$13.31/MMBtu in 2019\$ and \$32.71/MMBtu in 2019\$, respectively). Additionally, the 30-year trends are comparable in the two AEO editions. Due to comparable energy use and lower energy prices, DOE has tentatively determined that the annual operating cost of vented heaters has either decreased or not changed significantly from that estimated in the April 2010 final rule.<sup>11</sup>

The information presented in the NOPD support DOE's determination that the potential amended standard is not cost-effective on an energy price basis. Furthermore, based on the assumptions in the NOPD regarding the life-cycle cost (LCC) and payback period (PBP), DOE has determined that these factors do not support implementing an amended standard because there is a lack of cost justification.<sup>12</sup> APGA and AGA also support the NOPD's conclusion regarding LCC and PBP and the cost effectiveness of an amended standard.

APGA and AGA agree with DOE's determinations in the NOPD and support their finalization; however, the finalization must be accompanied with a discussion of a recently finalized interpretive rule impacting certain condensing and non-condensing gas appliances, including vented heaters.

Notably, the NOPD discusses a 2018 Gas Industry Petition for rulemaking (the Petition)<sup>13</sup> and DOE's need to review DHE ECSs for any necessary changes upon the agency's final action on the Petition. On

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<sup>8</sup> 85 Fed. Reg. 77017 at 77038.

<sup>9</sup> See *e.g.*, 85 Fed. Reg. 77017 at 77034.

<sup>10</sup> 85 Fed. Reg. 77017 at 77037.

<sup>11</sup> 85 Fed. Reg. 77017 at 77034 (footnotes omitted).

<sup>12</sup> 85 Fed. Reg. 77017 at 77034.

<sup>13</sup> 83 Fed. Reg. 54883 (November 1, 2018). Both APGA and AGA were signatories to the Petition, which was still under consideration at the time of the NOPD's publication.

January 15, 2021, DOE responded to the Petition by publishing a final interpretive rule,<sup>14</sup> which determined that the “use of non-condensing technology (and associated venting) constitute a performance-related ‘feature’ under [EPCA] that cannot be eliminated through adoption of an [ECS].” Consequently, in its finalization of this NOPD, DOE must include a discussion of this final interpretive rule and how it applies to applicable DHE ECSs – specifically, vented heaters.<sup>15</sup>

APGA and AGA support the finalization of the proposed determinations for vented heaters, and we urge DOE to include a discussion of the aforementioned final interpretive rule’s application to the determinations at issue in this proceeding, which will help ensure the interpretation is appropriately applied in future DHE ECS rulemakings.

## 2. Unvented Heaters

DOE also determined that standards for unvented gas heaters, whose DOE efficiency rating approaches 100% AFUE, are not needed, reasoning that most available today “have instructions to turn the pilot light off and, thus, would not be required to measure the standing pilot light input rate.” It is important to note that unvented gas heaters are required by the products consensus safety standard (American National Standard Z21.11.1) to incorporate an Oxygen Depletion Safety (ODS) system that also acts as a burner ignition system. This is relevant to this and future rulemakings because a prohibition of standing pilot lights, as they are used in ODS systems would essentially prohibit manufacturing unvented gas heaters. Therefore, APGA and AGA agree with DOE’s determination and support its finalization.

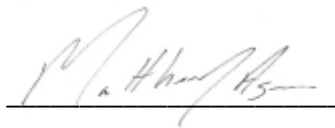
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We thank you for the review and consideration of these comments. If you have any questions regarding this submission, please do not hesitate to contact us.

Respectfully submitted,



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<sup>14</sup> 86 Fed. Reg. 4776 (2021).

<sup>15</sup> We believe the proposed determinations in this NOPD are consistent with the final interpretive rule.