



January 30, 2023

Ms. Julia Hegarty
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: The Office of Energy Efficiency and Renewable Energy's Notification of Availability of Preliminary Technical Support Document and Request for Comment for Energy Conservation Standards Consumer Furnaces [Docket Number EERE-2021-BT-TP-0023]

Dear Ms. Hegarty:

The American Gas Association ("AGA"), American Public Gas Association ("APGA"), National Propane Gas Association ("NPGA"), Spire Inc., and Spire Missouri Inc. (collectively, "Commenters") appreciate the opportunity to provide comments in response to the Department of Energy's ("DOE") notification of availability of preliminary technical support document and request for comment pertaining to energy conservation standards ("ECS") for certain classes of consumer furnaces, which appeared in the Federal Register on November 29, 2022.¹ Although not appliance manufacturers, our members provide the energy needed to fuel consumer weatherized gas furnaces ("WGFs"), making fuel gas providers a critical stakeholder in this work.

AGA, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 77 million residential, commercial, and industrial natural gas customers in the U.S., of which 95 percent — more than 73 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 one-third of the United States' energy needs.²

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.³

¹ 87 Fed. Reg. 73259 (2022).

² For more information, please visit www.aga.org.

³ For more information, please visit www.apga.org.

NPGA is the national trade association of the propane industry with a membership of about 2,800 companies, and 36 state and regional associations that represent members in all 50 states. NPGA members include retail marketers of propane gas who deliver the fuel to the end user, propane producers, transporters and wholesalers, and manufacturers and distributors of equipment, containers, and appliances. Propane gas fuels millions of installations nationwide for home and commercial heating and cooking, in agriculture, industrial processing, and as a clean air alternative engine fuel for both over-the-road vehicles and industrial lift trucks. Approximately 75% of NPGA's members are small businesses with fewer than 100 employees.

Spire Inc. and Spire Missouri Inc. (collectively, "Spire") are in the natural gas utility business. Spire Inc. owns and operates natural gas utilities that distribute natural gas to over 1.7 million residential, commercial, and institutional customers across Missouri, Alabama, and Mississippi, and Spire Missouri Inc. is the largest natural gas utility serving residential, commercial, and institutional customers in Missouri.

Fuel gas providers are critical stakeholders in rulemakings concerning standards for products (such as consumer furnaces) that use gas and support energy efficiency, including cost effective efficiency improvements, for gas-fired products. Commenters are guided by the congressional mandate that appliance efficiency standards should not impose unjustified costs on consumers or deprive consumers of gas products that are suitable for their needs. Such standards are not authorized by statute and would be harmful to fuel gas providers and the consumers they serve.

Comments

On June 27, 2011, DOE published a direct final rule ("June 2011 DFR") revising the ECS for consumer furnaces, including WGFs, which are included in the scope of this RFI. With regards to WGFs, the June 2011 DFR amended the compliance date but left the existing standards in place. While a legal challenge by APGA resulted in the June 2011 DFR being remanded in part, the standards for WGFs were left in place. Commenters provided feedback on a request for information ("RFI") that DOE issued in 2022, seeking data to help DOE determine whether ECS for WGF must be updated according to statutory requirements, and now wish to reiterate those comments in response to this most recent request for comment.

First and foremost, it is important the DOE implement the recommendations from the recent National Academies of Sciences, Engineering, and Medicine ("NASEM report")⁴ into all its appliance rulemakings, whether for test procedures or energy conservation standards, including for WGFs. The NASEM report comprehensively evaluated the agency's appliance rulemaking process and identified several key areas in which DOE can improve its rulemaking process. Several of these recommendations even align with suggestions Commenters have made over the years regarding economic modeling and data availability that would greatly help all stakeholders better understand the agency's process and ensure that DOE is making its decisions on the most appropriate data and models.

Of note, Commenters wish to highlight three recommendations from the report that should be implemented in any rulemaking impacting WGFs:

- DOE should pay greater attention to the justification for the standards, as required by executive orders and the EPCA requirement that standards be economically justified. DOE should attempt

⁴ *Review of Methods Used by the U.S. Department of Energy in Setting Appliance and Equipment Standards*, NASEM (2021), available at <https://www.nap.edu/read/25992/chapter/1>.

to find significant failures of private markets or irrational behavior by consumers in the no-standards case and should consider such a finding as being necessary to conclude that standards are economically justified.

- DOE should place greater emphasis on providing an argument for the plausibility and magnitude of any market failure related to the energy efficiency gap in its analyses. For some commercial goods in particular, there should be a presumption that the market actors behave rationally, unless DOE can provide evidence or argument to the contrary.
- DOE should give greater attention to a broader set of potential market failures on the supply side, including not just how standards might reduce the number of competing firms, but also how they might impact price discrimination, technological diffusion, and collusion.⁵

These recommendations from the NASEM report highlight the importance of DOE appropriately taking into consideration rational purchasing decisions and identifying where potential market failures may take place, whether on the supply or consumer side, before determining whether new efficiency standards are warranted. Along with determining whether there have been any technical advances in the WGFs available on the market today, it is critical that DOE address these recommendations before analyzing whether new efficiency standards are warranted.

Relatedly, Commenters wish to reiterate comments made in earlier RFIs⁶ pertaining to concerns with DOE's reliance on flawed projections of natural gas price trends and marginal residential natural gas prices, as well as systemic problems with the agency's economic analysis of standards.⁷ Similar to the recommendations from the NASEM report, these earlier comments highlight flaws in DOE's process that must be addressed to better model consumer purchasing decisions and future fuel prices, among other things. DOE should address these concerns both in the WGF RFI and future rulemakings before proposing any new minimum efficiency standards for appliances.

* * *

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,


⁵ NASEM report, p. 3.

⁶ Comments of the American Gas Association, et al. in response to DOE's request for information pertaining to energy conservation standards for consumer boilers (May 26, 2021). Those comments are incorporated in this submission as "Attachment A." They are also available here: <https://www.regulations.gov/comment/EERE-2019-BT-STD-0036-0015>.

⁷ To the extent applicable to propane gas prices and trends, NPGA shares these concerns.



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