



Submitted via regulations.gov

July 10, 2023

Regulations Division
Office of General Counsel
U.S. Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

Re: Request for Extension of Comment Period
Docket No. FR-6271-N-01
Adoption of Energy Efficiency Standards for New Construction of HUD- and USDA-Financed Housing: Preliminary Determination and Solicitation of Comment, 88 Fed. Reg. 31773 (May 18, 2023)

U.S. Department of Housing and Urban Development:

The American Gas Association (“AGA”), American Public Gas Association (“APGA”) and National Propane Gas Association (“NPGA”) (collectively, “Joint Requesters”) respectfully request that U.S. Department of Housing and Urban Development (“HUD”) extend the public comment period in the above-referenced proceeding¹ for an additional 90 days.

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 96 percent — more than 74 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 nearly one-third of the United States’ energy needs.

APGA is the trade association for more than 730 communities across the U.S. that own and operate their retail natural gas distribution entities. They include not-for-profit gas distribution systems owned by municipalities and other local government entities, all locally accountable to the citizens they serve. Public gas systems focus on providing safe, reliable, and affordable energy

¹ *Adoption of Energy Efficiency Standards for New Construction of HUD- and USDA-Financed Housing: Preliminary Determination and Solicitation of Comment*, Docket No. FR-6271-N-01, RIN 2506-AC55, 88 Fed. Reg. 31773 (May 18, 2023) (“Preliminary Determination”).

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.²

NPGA is the national trade association of the propane industry with a membership of about 2,400 companies, and 36 state and regional associations that represent members in all 50 states. Membership in NPGA includes 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. Roughly 75% of NPGA's members have fewer than 100 employees, and are considered small businesses. The proposal directly addresses products which currently, and in the future, may rely on propane for fuel, and as such, the proposal has the potential to have a direct and significant impact on NPGA's members.

On May 18, 2023, HUD published the Preliminary Determination in the Federal Register and established July 17, 2023 as the comment due date. The National Association of Home Builders of the United States ("NAHB")³ and Leading Builders of America ("LBA")⁴ filed letters requesting that HUD provide an additional 90 days beyond the currently scheduled comment deadline of July 17, 2023. Joint Requesters support the extension requests filed by NAHB and LBA for the reasons stated therein.

Moreover, while the Administrative Procedure Act ("APA") does not establish a minimum comment period for rulemakings, courts require that agencies provide a "meaningful" opportunity for comment.⁵ In short, "[t]he opportunity for comment must be a meaningful opportunity" and "in order to satisfy this requirement, an agency must also remain sufficiently open-minded."⁶ Additional time is needed to meaningfully analyze and respond to the Preliminary Determination. An extension will permit stakeholders sufficient time to develop meaningful comments on the complex and important issues presented in the Preliminary Determination, and aid HUD in developing a sufficient record in this proceeding. Providing a 90-day extension for comments in this proceeding will not cause a significant delay in HUD's consideration of the record and any next steps.

Thank you for the review and consideration of this extension request. If you have any questions regarding this submission, please do not hesitate to contact the undersigned.

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

³ See <https://www.regulations.gov/comment/HUD-2023-0034-0008>.

⁴ See <https://www.regulations.gov/comment/HUD-2023-0034-0007>.

⁵ See, e.g., *Rural Cellular Ass'n v. Fed. Commc'ns Comm'n*, 588 F.3d 1095, 1101 (D.C. Cir. 2009), *Gerber v. Norton*, 294 F.3d 173, 179 (D.C. Cir. 2002).

⁶ *Rural Cellular Ass'n*, 588 F.3d at 1101.

Respectfully submitted,



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