



*Submitted via regulations.gov*

August 7, 2024

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

**Re: Request for an Extension of the Comment Period, Notification of Data Availability, *Energy Conservation Program: Energy Conservation Standards for Consumer Water Heaters*, EERE-2017-BT-STD-0019, RIN 1904-AF65, 89 Fed. Reg. 59692 (July 23, 2024)**

Dear Ms. Hegarty:

The American Gas Association (“AGA”), American Public Gas Association (“APGA”), National Propane Gas Association (“NPGA”), and Rinnai America Corporation (collectively, “Joint Requesters”) respectfully request that the Office of Energy Efficiency and Renewable Energy (“EERE”), Department of Energy (“DOE”), extend the public comment period by 30 days in the above-referenced proceeding. The notification of data availability and request for comment (“NODA”)<sup>1</sup> and associated documents require careful consideration to develop meaningful stakeholder comments. As discussed herein, additional time to provide comments in response to the NODA is justified.

AGA, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 78 million residential, commercial, and industrial natural gas customers in the U.S., of which 95 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 more than one-third of the United States’ energy needs.<sup>2</sup>

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<sup>1</sup> *Energy Conservation Program: Energy Conservation Standards for Consumer Water Heaters*, EERE-2017-BT-STD-0019, RIN 1904-AF65, 89 Fed. Reg. 59692 (July 23, 2024).

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

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 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.<sup>3</sup>

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.

Rinnai America Corporation is the U. S. based subsidiary of Rinnai Corporation, Nagoya, Japan. Rinnai opened its first U.S. headquarters in 1974 and has been at the forefront of tankless gas water heater technology for over 50 years. Rinnai is one of the leading U.S. manufacturers and sellers of tankless gas water heaters, which provide greater efficiency, have longer life span, and use less space than traditional storage gas water heaters. Rinnai manufactures non-condensing gas tankless water heaters built by American workers in its state-of-the-art assembly facility in Griffin, Georgia. Rinnai's new facility, opened in 2022, employs advanced automation, precision assembly processes, and is ISO 9001 and/or ISO 14001 certified. Rinnai currently employs upwards of 600 people across the United States at its headquarters, assembly facilities, and distribution centers. In the last six years, Rinnai has invested over \$100 million as part of its commitment to developing a strong domestic assembly facility for non-condensing gas water heaters to serve the North American market.

Joint Requesters both provide the energy needed to fuel consumer water heaters and manufacture and sell tankless gas water heaters, thus making them critical stakeholders.

On July 23, 2024, DOE published in the Federal Register the NODA and request for comment regarding energy conservation standards for consumer water heaters. DOE provided stakeholders only 30 days or until August 22, 2024, to comment on the NODA. To sufficiently analyze the NODA and the related documents, which appear to incorporate new data and to use new methodologies and reach different results from the NOPR,<sup>4</sup> an additional 30 days is required. DOE's determinations in this proceeding will have significant implications for consumers and the energy industry. Any modifications to the efficiency standards, large or small, will have

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<sup>3</sup> For more information, please visit [www.apga.org](http://www.apga.org).

<sup>4</sup> *Energy Conservation Program: Energy Conservation Standards for Consumer Water Heaters*, EERE-2017-BT-STD-0019, RIN 1904-AD91, 88 Fed. Reg. 49058 (July 28, 2023).

significant ramifications for suitable water heater availability for customers and the marketplace for years to come.

Additionally, the 30-day public comment period for the NODA comes during a summer period when many stakeholders may be away from work. Individuals taking time away from work should not hinder development of meaningful comments in response to the NODA. DOE should endeavor to provide stakeholders with sufficient time to meaningfully comment on all its proposals.

While the Administrative Procedure Act does not establish a minimum comment period for rulemakings, courts require that agencies provide a “meaningful” opportunity for comment.<sup>5</sup> 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.”<sup>6</sup> As discussed, additional time is needed to meaningfully analyze and respond to the NODA and associated data and documents.

Given the factors affecting stakeholders’ ability to develop meaningful comments in the allotted time, DOE should extend the comment period by at least an additional 30 days. This will allow all stakeholders sufficient time to review and understand the NODA and to develop meaningful comments on the significant issues addressed. Furthermore, providing a 30-day extension for comments will not cause a significant delay in DOE’s consideration of the record and any next steps.

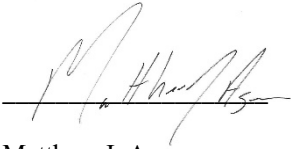
Joint Requesters thank the Department of Energy for the review and consideration of this extension request. If you have any questions regarding this submission, please do not hesitate to contact the undersigned.

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<sup>5</sup> 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).

<sup>6</sup> *Rural Cellular Ass'n*, 588 F.3d at 1101.

Respectfully submitted,



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Cc: Mr. Uchechukwu “Emeka” Eze (U.S. DOE, Office of the General Counsel)