



Submitted electronically

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Re: Request to Amend the Compliance Dates for *Energy Conservation Program: Energy Conservation Standards for Commercial Water Heating Equipment*, 88 Fed. Reg. 69,686 (Oct. 6, 2023); and *Energy Conservation Program: Energy Conservation Standards for Consumer Furnaces*, 88 Fed. Reg. 87,502 (Dec. 18, 2023)

Assistant Secretary Robertson,

The American Gas Association (“AGA”), American Public Gas Association (“APGA”), and National Propane Gas Association (“NPGA”) (collectively, “Joint Requesters”) respectfully request pursuant to the Energy Policy and Conservation Act (“EPCA”)¹ and the Administrative Procedure Act (“APA”),² that the Department of Energy (“Department” or “DOE”) amend the compliance dates for the following rules: (1) *Energy Conservation Program: Energy Conservation Standards for Commercial Water Heating Equipment*, 88 Fed. Reg. 69,686 (Oct. 6, 2023) (“Commercial Water Heater Rule”);³ and (2) *Energy Conservation Program: Energy Conservation Standards for Consumer Furnaces*, 88 Fed. Reg. 87,502 (Dec.

¹ EPCA authorizes the Secretary of Energy to issue rules necessary to carry out EPCA’s provisions regarding consumer products. 42 U.S.C. § 6298. EPCA also applies those provisions to specified categories of commercial equipment, including commercial water heating equipment. 42 U.S.C. § 6316(b)(1).

² Interested persons may petition an agency for the issuance, amendment, or repeal of a rule under the APA. *See* 5 U.S.C. § 553(e).

³ *Energy Conservation Program: Energy Conservation Standards for Commercial Water Heating Equipment*, 88 Fed. Reg. 69,686 (Oct. 6, 2023) (codified at 10 C.F.R. §§ 431.102, 431.105(a), and 431.110).

18, 2023) (“Consumer Furnace Rule”).⁴ The compliance date for the Commercial Water Heater Rule is currently October 6, 2026,⁵ and the compliance date for the Consumer Furnace Rule is December 18, 2028.⁶ For the reasons discussed below, DOE should amend the compliance dates to provide regulatory certainty while Supreme Court review of these rules is pending and related matters remain active. Amending the compliance dates would also aid in maintaining energy affordability by providing manufacturer certainty and preserving homeowner energy choice. The Administration has emphasized reducing cost-of-living expenses for Americans and is actively taking steps to address affordability.⁷ Amending the compliance dates would align with the Administration’s priorities of reducing regulatory burdens and helping to limit costs for American households. The compliance dates for these rules will influence near-term manufacturing, distribution, and installation decisions, which in turn will have a significant cost impact for American homes and businesses. Specifically, the Department should amend the compliance dates for the Commercial Water Heater Rule and the Consumer Furnace Rule to January 1, 2030, at a minimum to permit the conclusion of judicial and regulatory processes that could impact the aforementioned rules.

I. Identity and Interest

AGA, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 79 million residential, commercial, and industrial natural gas customers in the U.S., of which 94 percent — more than

⁴ *Energy Conservation Program: Energy Conservation Standards for Consumer Furnaces*, 88 Fed. Reg. 87,502 (Dec. 18, 2023) (codified at 10 C.F.R. §§ 430.32(e)(1)(ii)-(iii)).

⁵ 42 U.S.C. §§ 6313(a)(6)(C)(i)-(ii).

⁶ 42 U.S.C. § 6295(o)(6)(A)(ii) (furnaces: apply to products manufactured after the date that is 5 years after publication).

⁷ Exec. Order No. 14,154, 90 Fed. Reg. 8,353 (Jan. 20, 2025); Presidential Memorandum on Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis, 90 Fed. Reg. 8,245 (Jan. 20, 2025).

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.⁸

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 safely providing 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.⁹

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.

⁸ For more information, please visit www.aga.org.

⁹ For more information, please visit www.apga.org.

Joint Requesters' members serve residential and commercial consumers, the majority of whom use natural gas appliances, such as furnaces, boilers, water heaters, *etc.* Therefore, Joint Requesters have a direct and vital interest in both the minimum efficiency standards for these products and appliances and the procedures used by the Department to adopt such standards.

II. The Department Should Promptly Amend the Compliance Dates for the Commercial Water Heater Rule and the Consumer Furnace Rule.

Joint Requesters request that DOE promptly amend compliance dates for the Commercial Water Heater Rule and the Consumer Furnace Rule in order to protect consumers and their choice of energy and appliances, which will also help ensure energy affordability. This process should be completed pursuant to the Department's authority under EPCA, and consistent with APA requirements.¹⁰ Amending the compliance dates would provide regulatory certainty, allow pertinent legal and regulatory processes to be completed, and be consistent with recently issued Executive Orders.

Specifically, there is a proceeding pending at the Supreme Court concerning the rules, the Spring 2025 Unified Agenda of Federal Regulatory and Deregulatory Actions includes an item that could impact the rules, and the potential changes to DOE's Process Rule are currently pending at the Office of Management and Budget ("OMB"). The combination of these activities warrants prompt DOE action to provide clarity and prevent unnecessary disruption by amending the compliance dates for the Commercial Water Heater Rule and the Consumer Furnace Rule.

¹⁰ 5 U.S.C. § 551, *et seq.*

A. Amendment of the Compliance Deadlines to Allow for Additional Lead Time Is Warranted to Ensure Consumer Affordability and Minimize Cost Impacts.

The compliance dates for these rules will drive near-term manufacturing, distribution, and installation decisions that can translate to significant cost impacts for residential and commercial customers. Providing additional lead time for potential compliance with the rules would help minimize the adverse impacts of the rules and allow DOE sufficient time to fully consider the impacts of the rules on the millions of American households and small businesses that will be affected.

Executive Order 14154, “Unleashing American Energy,” directs the heads of all agencies to review “all existing regulations, orders, guidance documents, policies, settlements, consent orders, and any other agency actions” to identify those that impose an undue burden on the identification, development, or use of domestic energy resources, including restrictions on consumer choice of vehicles and appliances. *See* 90 Fed. Reg. 8,353 (Jan. 20, 2025). DOE has recently taken steps in other contexts to prevent near-term compliance burdens, including staying a compliance date for DOE’s “Clean Energy for New Federal Buildings and Major Renovations of Federal Buildings” provisions from May 1, 2025, until May 1, 2026, during DOE’s review of implementation guidance.¹¹ In December 2025, DOE rescinded its support for the National Definition of a “Zero Emissions” Building, stating that DOE no longer supports the definition and that it is inconsistent with current Administration priorities.¹² These actions show DOE is working to avoid unnecessary compliance burdens while similar policies are

¹¹ *Clean Energy for New Federal Buildings and Major Renovations of Federal Buildings*; Stay, 90 Fed. Reg. 18,911 (May 5, 2025).

¹² *Removing Support for the National Definition of a Zero Emissions Building*, 90 Fed. Reg. 55,722 (Dec. 3, 2025).

under review. The same approach supports DOE’s consideration of an amendment here to reduce stranded investments and near-term cost impacts on consumers.

The Department’s prompt action to amend the compliance timing is necessary. Additionally, this action would be consistent with the Administration’s affordability and cost-of-living priorities. Revising the compliance dates would also be in line with the Administration’s commitment to promoting energy affordability, preserving fuel choice, and reducing regulatory burdens.¹³ DOE has withdrawn or postponed various conservation standards, simplified its water conservation standards by repealing a definition of a “showerhead,” delayed the effective dates of efficiency standards for walk-in coolers and freezers and consumer gas-fired instantaneous water heaters (and subsequently withdrew those two standards), and delayed the effective dates of test procedures for central air conditioners and heat pumps.¹⁴

U.S. consumers are likely to suffer irreparable injury absent amended compliance dates. Moreover, manufacturers of the covered products and associated venting equipment have no choice now but to spend millions of dollars preparing to comply with the rules, and many of those expenditures will be stranded if the rules are ultimately deemed unlawful. Moreover, the rules will be onerous on American families and notably will raise costs for a large number of

¹³ Exec. Order No. 14154, 90 Fed. Reg. 8,353; Presidential Memorandum on Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis, 90 Fed. Reg. 8,245.

¹⁴ See *Energy Conservation Program: Water Conservation Standards; Repeal of the Definition of Showerhead*, 90 Fed. Reg. 15,647 (Apr. 15, 2025); *Energy Conservation Program: Energy Conservation Standards for Walk-In Coolers and Walk-In Freezers*, 90 Fed. Reg. 9,951-9,952 (Feb. 20, 2025) (delay of effective date), 90 Fed. Reg. 13,054-13,055 (Mar. 20, 2025) (further delay of effective date), 90 Fed. Reg. 21,391-21,392 (May 20, 2025) (withdrawal); *Energy Conservation Program: Energy Conservation Standards for Consumer Gas-Fired Instantaneous Water Heaters*, 90 Fed. Reg. 9,951 (Feb. 20, 2025) (delay of effective date), 90 Fed. Reg. 13,054 (Mar. 20, 2025) (further delay of effective date), 90 Fed. Reg. 21,390-21,391 (May 20, 2025) (withdrawal); *Energy Conservation Program: Test Procedures for Central Air Conditioners and Heat Pumps*, 90 Fed. Reg. 9,001 (Feb. 5, 2025) (delay of effective date), 90 Fed. Reg. 13,052-13,053 (Mar. 20, 2025) (further delay of effective date), 90 Fed. Reg. 21,389-21,390 (May 20, 2025) (further delay of effective date).

senior-only households, low-income households, and small business consumers. Natural gas is 3.5 times more affordable than electricity and significantly more affordable than several other residential energy sources for the same amount of energy delivered. Households that use natural gas for heating, cooking, and clothes drying save an average of \$1,030 per year compared to homes using electricity for those applications. Propane shows cost savings over electric as well; per Btu electricity is 1.4 times more expensive than propane.¹⁵ This cost differential is even more pronounced in areas of the country that are both cold and have above average electricity prices, including the Mid-Atlantic and Northeast regions,¹⁶ as space and water heating are the two most energy-intensive applications in most American homes.¹⁷

Specifically, non-condensing furnaces, which will be banned from manufacturing under the Consumer Furnace Rule, make up approximately 55% of the market for natural gas furnaces in the United States, cannot be replaced by other furnace types, and their removal from the market would saddle families with a challenging choice: perform costly renovations on their home or eliminate gas as a home heating option all together. The Department's own data shows that the Consumer Furnace Rule would negatively impact costs for 30% of senior-only households, 26% of low-income households, and 27% of small business consumers. For households with mobile home gas furnaces, 39% of consumers would be negatively affected by the proposed standard, showing a disproportionate impact on America's low-income households. Prompt action amending the compliance deadlines for these rules would mark

¹⁵ *Energy Conservation Program for Consumer Products: Representative Average Unit Costs of Energy*, 89 Fed. Reg. 83,672, (Oct. 17, 2024).

¹⁶ Table 2.10: Average Price of Electricity to Ultimate Customers by End-Use Sector, U.S. Energy Information Administration, (2025), available at https://www.eia.gov/electricity/annual/html/epa_02_10.html.

¹⁷ *Today in Energy: Space heating and water heating account for nearly two thirds of home energy use*, U.S. Energy Information Administration, (Nov. 7, 2018), available at <https://www.eia.gov/todayinenergy/detail.php?id=37433>.

another important step in the Administration’s commitment to lower costs for American consumers and is consistent with the Administration’s emphasis on affordability and cost-of-living considerations.

B. Amendment of the Compliance Deadlines Is Warranted Because Issues Related to These Rules Are Pending in the Current Unified Agenda of Federal Regulatory and Deregulatory Actions and in a Rulemaking Proceeding that Is Currently Under Executive Branch Review.

The Spring 2025 Unified Agenda of Federal Regulatory and Deregulatory Actions (“Unified Agenda”) for the Department includes a matter titled “Interpretive Rulemaking Regarding Energy Conservation Standards for Residential Furnaces and Commercial Water Heaters (and Similarly-Situated Products/Equipment)” (“Interpretive Rule”).¹⁸ The Unified Agenda’s abstract states that the Department is reexamining an interpretive rule related to residential furnaces, commercial water heaters, and similarly-situated products/equipment and the use of non-condensing and condensing technology.¹⁹ The Department states that it is reexamining its earlier interpretation in accordance with Executive Order 14154, “Unleashing American Energy,” and Presidential Memorandum titled “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.”²⁰ Changes to the Interpretive Rule could impact the legal and regulatory principles that underpin the Commercial Water Heater Rule and the Consumer Furnace Rule.

In addition, a matter titled “Procedures, Interpretations, and Policies for Consideration in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products

¹⁸ See RIN 1904-AF71.

¹⁹ See <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202504&RIN=1904-AF71>.

²⁰ Exec. Order No. 14154, 90 Fed. Reg. 8,353; Presidential Memorandum on Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis, 90 Fed. Reg. 8,245.

and Commercial/Industrial Equipment” (“Process Rule”) appears in the Unified Agenda.²¹ The Unified Agenda’s abstract states that the Department “is considering a notice-and-comment rulemaking to amend its Process Improvement Rule to reflect statutory changes as well as innovative, collaborative approaches to reflect more efficient rulemaking.”²² Moreover, the Process Rule was received at OMB on January 9, 2026, and is currently pending review by the Office of Information and Regulatory Affairs. Because changes to the Process Rule and Interpretive Rule could affect how DOE approaches standards rulemakings, amending the compliance dates now would help avoid forcing manufacturers and consumers to make irreversible transition investments while DOE is considering these matters.

C. Amendment of the Compliance Deadlines Is Warranted Due to Pending Supreme Court Review of These Rules.

On January 20, 2026, AGA, APGA, NPGA, and NCTP, Inc., doing business as Thermo Products (“Petitioners”) petitioned the U.S. Supreme Court to review the D.C. Circuit decision upholding DOE’s Consumer Furnace Rule and Commercial Water Heater Rule.²³ The petition maintains that the lower court inappropriately deferred to the Department in violation of *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 395 (2024), and the majority erred in analyzing the sections of EPCA that protected performance characteristics. The interests of justice require amendment of the compliance dates for the Commercial Water Heater Rule and the Consumer Furnace Rule pending judicial review. First, there is significant likelihood that Petitioners will succeed on the merits in a challenge of both rules at the Supreme Court.²⁴ Second, if the Court

²¹ See RIN 1904-AF72.

²² See <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202504&RIN=1904-AF72>.

²³ Petition for Writ of Certiorari at Supreme Court of the United States, *AGA v. DOE*, No. 25-879 (Jan. 20, 2026).

²⁴ *Id.*

grants certiorari, the briefing could extend for months, and it could be some time before the Court issues an opinion. Hence, a decision may not be issued until 2027, after the compliance date for the Commercial Water Heater Rule.

In short, the pending petition for writ of certiorari creates near-term uncertainty for manufacturers and the market. Specifically, it creates uncertainty for manufacturers, distributors, contractors, and consumers who must plan for compliance in advance of the compliance dates. This uncertainty is particularly relevant for the Commercial Water Heater Rule, given the proximity of the current compliance date (October 6, 2026) and the lead times associated with the rule. Finally, an amendment of the compliance dates pending judicial review will not substantially injure other parties or undermine the public interest. In summary, “[t]here is generally no public interest in the perpetuation of unlawful agency action.” *Shawnee Tribe v. Mnuchin*, 984 F.3d 94, 102 (D.C. Cir. 2021) (internal quotation marks omitted). In conclusion, prompt action by DOE to amend the compliance dates would provide greater regulatory certainty and reduce the risk of disruption and compliance expenditures while Petitioners’ petition for writ of certiorari is pending.

III. Conclusion

For the reasons stated above, Joint Requesters respectfully request that the Department amend the compliance dates for the Commercial Water Heater Rule and the Consumer Furnace Rule. If you have any questions regarding this submission, please do not hesitate to contact the undersigned.

Respectfully submitted,



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