



May 16, 2022

Ms. Julia Hegarty
U.S. Department of Energy
Office of Energy Efficiency and Renewable Energy
Building Technologies Office, EE-2J
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 Notice of Proposed Rulemaking
Pertaining to Test Procedures for Consumer Boilers [Docket Number EERE-2019-BT-TP-0037]**

Dear Ms. Hegarty:

The American Gas Association ("AGA") and the American Public Gas Association ("APGA") appreciate the opportunity to provide comments in response to the Department of Energy's ("DOE") notice of proposed rulemaking ("NOPR") pertaining to test procedures for consumer boilers.¹ Although not appliance manufacturers, our members provide the energy needed to fuel gas-fired consumer boilers, making natural gas utilities 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 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.³

¹ 87 Fed. Reg. 14622 (Mar. 15, 2022).

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

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

AGA and APGA believe that the efficiency test procedures developed by DOE are a key element in establishing minimum efficiency ratings for appliances and equipment covered by federal law. Accordingly, the test procedures must be developed in an open and transparent manner, based on technically sound and fact-based data that result in methods that are repeatable and provide reliable and consistent results.

Efficiency ratings for DOE covered products have substantial impacts in several areas including proof of compliance with minimum efficiency requirements and consumer confidence in established programs such as EPA's ENERGY STAR®, which are informed by DOE's processes. Of course, the penalty of a manufacturer found with a non-compliant product(s) is substantial. Also, natural gas utilities support the manufacturing of efficient appliances to benefit both the customer and the environment, and this is accomplished through testing procedures that are concise, unambiguous, and provide reliable and repeatable results.

DOE must promulgate test procedures that are accurate, repeatable, and reproducible and not unduly burdensome to conduct. To help guide the agency in this task, AGA and APGA echo several comments made by the Air-Conditioning, Heating, & Refrigeration Association ("AHRI"). We believe that, when implemented, these recommendations will ensure repeatability, reliability, and ease of conduct for the consumer boilers testing procedure.

Of note, AGA and APGA:

- Share AHRI's concern with DOE's proposal to include heat pumps in the same rulemaking as boilers, as there are currently no heat pump products on the market that can provide the same functionality as a boiler for high temperature installations.⁴
- Support DOE's proposal to remove the definition for the unused term "outdoor boiler" to add clarity and consistency.
- Support DOE's proposal to incorporate by reference the definitions in ANSI/ASHRAE 103-2017 and to remove the definitions for "control" and "isolated combustions system" to remove unnecessary redundancy.
- Support DOE's attempt to remove the circular reference issue currently in the test procedure but share AHRI's concern that DOE's proposal lacks clarity.
 - Accordingly, AGA and APGA support AHRI's suggested language to remedy the issue, which is more concise and avoids the use of the same nomenclature having different meanings in different places.
- Urge the agency to continue to maintain alignment with the return water temperatures outlined in the current industry test procedure: ASHRAE 103
- Support DOE's extension of the use of linear interpolation to heat exchanger materials other than cast iron, as linear interpolation is a valid calculation method for these products as proven by the current cast iron allowance.

⁴ As AHRI explains, "Hydronic boiler systems provide heated water at or over 210 °F to meet the heating needs of the consumer. Current heat pump systems that are used in these applications require a backup gas or oil boiler to meet heating needs. This lack of utility should disqualify these products from being considered in the boiler test procedure." Comments of AHRI in response to NOPR, p. 2.

Additionally, it is important the DOE implement the recommendations from the recent National Academies of Sciences, Engineering, and Medicine (“NASEM report”)⁵ into all its appliance rulemakings, whether for test procedures or energy conservation standards. 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 AGA and APGA 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. Some of the most pertinent recommendations include:

Recommendation 2-2: 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 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.

Recommendation 3-5: DOE should expand the Cost Analysis segment of the Engineering Analysis to include ranges of costs, patterns of consumption, diversity factors, energy peak demand, and variance regarding environmental factors.

Recommendation 4-1: DOE should put greater weight on ex post and market-based evidence of markups to project a more realistic range of likely effects of a standard on prices, including the possibility that prices may fall. This would improve future analyses.

Recommendation 4-13: 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.

Recommendation 4-14: 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.

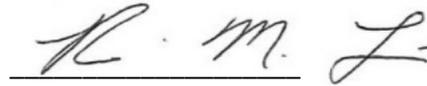
Thank you for the review and consideration of these comments. If you have any questions regarding this submission, please do not hesitate to contact us.

⁵ *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>.

Respectfully submitted,



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Cc: Ms. Amelia Whiting (US DOE, Office of the General Counsel)