

July 14, 2022

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 Request for Information
Pertaining to Energy Conservation Standards for Miscellaneous Gas Products [Docket Number
EERE-2022-BT-STD-0017]**

Dear Ms. Hegarty:

The American Public Gas Association ("APGA"), the National Propane Gas Association ("NPGA"), American Gas Association ("AGA") (collectively, "Commenters") appreciate the opportunity to provide comments in response to the Department of Energy's ("DOE") request for information ("RFI") in the above-referenced proceeding. Unfortunately, due to the limited length of the comment period, paired with several other compounding factors such as numerous other ongoing appliance efficiency rulemakings impacting gas-fired appliances,¹ Commenters have not had sufficient time to develop meaningful comments in response to the miscellaneous gas products RFI.

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.²

NPGA is the national trade association of the propane industry with a membership of about 2,500 companies, and 36 state and regional associations representing members in all 50 states. NPGA's membership 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, or liquefied petroleum gas, is used in millions of installations nationwide for home and commercial heating and cooking, in agriculture, in industrial processing, and as a clean air alternative engine fuel for both over-the-road vehicles and industrial lift trucks.³ NPGA represents

¹ These compounding factors were outlined in a joint request for an extension of the comment period from the AGA, APGA, and NPGA, which was submitted electronically to regulations.gov on July 1, 2022, and is available at <https://www.regulations.gov/comment/EERE-2022-BT-STD-0017-0004>.

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

³ For more information, please visit "NATIONAL PROPANE GAS ASSOCIATION, TODAY'S PROPANE (2017)," available at <https://npga.wpengine.com/wp-content/uploads/2017/08/NPGA-Todays-Propane-2017.pdf>.

appliance manufacturers and distributors of appliances described in the RFI as well as propane marketers that provide the fuel used by the appliances.

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.⁴

Although not appliance manufacturers, members of the Commenters provide the energy needed to fuel miscellaneous gas products described in the RFI, thus making them critical stakeholders in this work. Unfortunately, DOE has not provided sufficient time to review and develop meaningful comments in response to the RFI.

In response to DOE's earlier released Notice of Proposed Determination of Coverage ("NOPD"),⁵ the Hearth, Patio, and Barbeque Association ("HPBA") raised concerns about the agency's proposal to regulate the given products.⁶ We wish to again support and reiterate many of those concerns.

First, minimum efficiency standards for the products listed in the RFI are neither "necessary" nor "appropriate" within the meaning of 42 U.S.C. Section 6292(b)(1)(A), as there is no reasonable potential that efficiency standards for these products would provide significant energy savings or be economically justified. DOE has also failed to provide sufficient explanation on how it intends to identify the exact products for which the RFI seeks to collect information to inform future rulemakings, as well as why (and how) the agency believes that it would be appropriate to regulate each of these products. Accordingly, we again urge DOE to hold a public meeting to help the agency constructively and efficiently provide clarity on its proposed actions with respect to these products and address any stakeholder concerns.

Secondly, we are concerned with the agency's initiation of the RFI in deviation from Appendix A.⁷ It is difficult for stakeholders to provide DOE with meaningful information on appliance feasibilities, market dynamics, or potential consumer behavior without a clear definition of the appliances subject to the future rulemaking.⁸ Further, questions and comments posed by stakeholders in response to the coverage determination proposal remain unanswered during DOE's solicitation of feedback in the RFI, which limits the ability of stakeholders to provide pertinent information and data. We hope that despite this deviation DOE will conclude that some products are not worth regulating and narrow its proposed coverage determination accordingly. Additionally, we oppose the agency's decision to deviate from the 75-day

⁴ For more information, please visit www.aga.org.

⁵ Energy Conservation Program: Proposed Determination of Miscellaneous Gas Products as a Covered Consumer Product, 87 Fed. Reg. 6786 (Feb. 7, 2022).

⁶ Comments of HPBA in response to DOE's NOPD (Apr. 8, 2022), available at <https://www.regulations.gov/comment/EERE-2021-BT-DET-0034-0011>.

⁷ Energy Conservation Program: Energy Conservation Standards for Miscellaneous Gas Products, 87 Fed. Reg. 114, 35925 (June 14, 2022).

⁸ See *id.* at 35929.

comment period as detailed in Appendix A.⁹ In the RFI, DOE states that it finds a 30-day comment period sufficient for stakeholders, and that it enables the agency to review information more expeditiously.¹⁰ We disagree with the agency's foregone conclusion that approximately one-third of the normal comment period is sufficient, especially in light of additional rulemaking activities concurrently undertaken by the agency.¹¹ The 30-day comment period is not sufficient time to provide meaningful analysis and information, and we reiterate our request for the agency to provide additional time and information before continuing the rulemaking process.

Finally, if DOE does find that it is necessary and appropriate to propose minimum efficiency standards for miscellaneous gas products, it is important that the agency implement the recommendations from the recent National Academies of Sciences, Engineering, and Medicine ("NASEM report")¹² into all steps of its 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 the 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. 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.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Energy Conservation Program: Energy Conservation Standards for Commercial Water Heating Equipment, 87 Fed. Reg. 30610 (May 19, 2022); Energy Conservation Program: Energy Conservation Standards for Direct Heating Equipment, 87 Fed. Reg. 36249 (Jun. 16, 2022); Energy Conservation Program: Energy Conservation Standards for Consumer Furnaces, 87 Fed. Reg. 40590 (July 7, 2022).

¹² *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>.

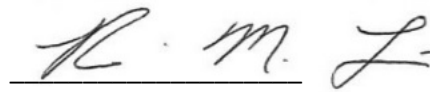
Recommendation 4-14: DOE should give greater attention to a broader set of potential market failures on the supply side, including not just how standards might reduce the number of competing firms, but also how they might impact price discrimination, technological diffusion, and collusion.

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

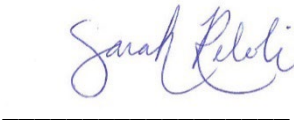
Respectfully submitted,



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Cc: Mr. Eric Stas (US DOE, Office of the General Counsel)