



November 17, 2023

Mr. Ronald A. Jordan
Directorate for Engineering Sciences, Mechanical Engineering
Consumer Product Safety Commission
National Product Testing and Evaluation Center
5 Research Place
Rockville, MD 20850

Submitted via regulations.gov

**Re: Request for an Extension of the Comment Period
Safety Standard for Residential Gas Furnaces and Boilers, CPSC-2019-0020, 88 Fed. Reg. 73272 (October 25, 2023)**

Dear Mr. Jordan:

The American Gas Association (“AGA”), American Public Gas Association (“APGA”) and National Propane Gas Association (“NPGA”) (collectively, “Joint Requesters”) respectfully request that the Consumer Product Safety Commission (“CPSC”) extend the public comment period by 60 days in the above-referenced proceeding. The notice of proposed rulemaking (“NOPR”)¹ and associated staff briefing package require careful consideration in order to develop comments. As discussed herein, additional time to provide comments in response to the NOPR 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 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 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

¹ *Safety Standard for Residential Gas Furnaces and Boilers*, CPSC-2019-0020, 88 Fed. Reg. 73272 (October 25, 2023).

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

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

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.

Joint Requesters provide the energy needed to fuel residential furnaces and boilers, thus making them critical stakeholders in this proceeding. 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.⁴ 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."⁵ As discussed herein, additional time is needed to meaningfully analyze and respond to the NOPR.

On October 25, 2023, CPSC published in the Federal Register a proposed rule to require carbon monoxide ("CO") sensors be installed in residential fuel-fired furnaces and boilers to facilitate appliance shut-down if certain conditions are met. CPSC provided stakeholders 60-days⁶ or until December 26, 2023, to comment on the NOPR. To sufficiently analyze the NOPR and the associated detailed staff briefing package, an additional 60 days are required. CPSC determinations in this proceeding will have significant implications for manufacturers and consumers – the customers of Joint Requesters' members – who rely on the appliances at issue. The proposed appliance safety standards will have significant ramifications on suitable furnace and boiler availability for customers and the marketplace for years to come.

Of note, the public comment period for the NOPR encompasses three federal holidays⁷ when many stakeholders are away from work. The limited staff available to review the NOPR during this time will make it difficult to develop meaningful comments in response to the NOPR. This challenge

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

⁴ See, e.g., *Rural Cellular Ass'n v. Fed. Comm'ns Comm'n*, 588 F.3d 1095, 1101 (D.C. Cir. 2009), *Gerber v. Norton*, 294 F.3d 173, 179 (D.C. Cir. 2002).

⁵ *Rural Cellular Ass'n*, 588 F.3d at 1101.

⁶ While statute caps CPSC at a 60-day notice and comment period for an advanced notice of proposed rulemaking (15 U.S.C. 2058(a)(4)), no such statutory limitation is placed on a notice of proposed rulemaking. 15 U.S.C. 2058(c).

⁷ The federal holidays encompassed by the comment period include the following: Veteran's Day, observed (November 10, 2023); Thanksgiving Day (November 23, 2023); and Christmas Day (December 26, 2023). The comment period also includes numerous other religious holidays for which observing stakeholders are likely to be away from work.

is paired with the fact that stakeholders continue to face significant supply chain and worker shortages that pose further obstacles to giving these important documents the critical review and feedback that are required. As the advanced notice of proposed rulemaking preceding this NOPR⁸ was issued for public comment over 4 years ago, an additional 60 days is not an unreasonable extension of time to ensure that Joint Requesters and all stakeholders have sufficient time to develop meaningful comments in response to this impactful rulemaking.

Furthermore, in a November 3, 2023, letter to CPSC, the Air-Conditioning, Heating, & Refrigeration Institute (“AHRI”) requested additional time to respond to the NOPR.⁹ As explained in the letter, a 60-day comment period extension is warranted, as AHRI filed an expedited request for information pertaining to underlying information central to this NOPR. Joint Requesters support the need for additional time to ensure that all relevant information from CPSC pertaining to this NOPR is available with sufficient time to allow all stakeholders the opportunity to properly respond to the proposal. Additionally, Joint Requesters urge CPSC to post any information in response to these information requests in the relevant docket for ease of access to all stakeholders.

Given the numerous compounding factors impacting stakeholders’ ability to develop meaningful comments in the allotted time, CPSC should extend the comment period by at least an additional 60 days. This will allow adequate time for all stakeholders to review and understand the NOPR, staff briefing package, and any associated materials produced as part of AHRI’s relevant information request in order to develop meaningful comments on the complex and important issues addressed by these documents. Providing a 60-day extension for comments in this proceeding will also not cause a significant delay in CPSC’s consideration of the record and requirement to act in a timely manner.¹⁰

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

Respectfully submitted,

⁸ *Performance Requirements for Residential Gas Furnaces and Boilers; Advance Notice of Proposed Rulemaking*, CPSC-2019-0020, 84 Fed. Reg. 42847 (Aug. 19, 2019).

⁹ Letter from S. Slater, AHRI, to A. Mills, CPSC, requesting a 60-day extension of the comment period for the NOPR (Nov. 3, 2023), available at <https://www.regulations.gov/comment/CPSC-2019-0020-0025>.

¹⁰ 15 U.S.C. 2058(c) (“Any proposed consumer product safety rule shall be issued within twelve months after the date of publication of the notice, unless the Commission determines that such proposed rule is not reasonably necessary to eliminate or reduce the risk of injury associated with the product or is not in the public interest. The Commission may extend the twelve month period for good cause.”).



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Cc: Ms. Alberta E. Mills (Secretary of the Commission)