



January 19, 2024

Ms. Hayes Jones
U.S. Department of Energy
Office of Energy Efficiency and Renewable Energy
Building Technologies Office
1000 Independence Avenue, SW
Washington, DC 20585

Submitted via electronic mail to Hayes.Jones@ee.doe.gov

Re: Request for an Extension of the Comment Period
National Definition for a Zero Emissions Building: Part 1 Operating Emissions, Version 1.00, Draft Criteria, DE-FOA-0003257, 88 Fed. Reg. 1086 (Jan. 9, 2024)

Dear Ms. Jones:

The American Gas Association (“AGA”), American Public Gas Association (“APGA”) and National Propane Gas Association (“NPGA”) (collectively, “Joint Requesters”) respectfully request that the U.S. Department of Energy (“DOE”) extend the public comment period by 30 days in the above-referenced proceeding. The request for information (“RFI”)¹ requires careful consideration in order to develop meaningful comments. As discussed herein, additional time to provide comments in response to the RFI 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 *National Definition for a Zero Emissions Building: Part 1 Operating Emissions, Version 1.00, Draft Criteria, DE-FOA-0003257, 88 Fed. Reg. 1086 (Jan. 9, 2024).*

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, commercial, and industrial buildings, thus making them critical stakeholders in this proceeding. While only an RFI, this agency action will have the impact of a formal rulemaking. The Administrative Procedure Act ("APA") does not establish a minimum comment period for rulemakings; however, 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 RFI.

On January 3, 2024, DOE sent an email to stakeholders already signed up for the relevant listserv, announcing the release of the RFI "to solicit feedback from industry, academia, research laboratories, government agencies, and other stakeholders on Part 1 of a draft National Definition for a Zero Emissions Building." DOE then published a formal notice in the Federal Register on January 9, 2024. DOE provided stakeholders, at most, 33-days or until February 5, 2024, to comment on the RFI. To sufficiently analyze the RFI and the potential impacts of a Zero Emissions Building definition, an additional 30 days are required. DOE's determinations in this proceeding will have significant implications for Joint Requesters' members and their customers, including manufacturers and consumers that construct, utilize, and live in the buildings at issue. The proposed definition will have significant ramifications on our country's building stock and marketplace for years to come, as DOE notes that it will be encouraging "[f]ederal assistance programs that support the construction and renovation of non-federally owned buildings" to align with the definition. DOE also expects certain building programs "to embed the definition within their certifications and the definition is anticipated to drive more capital to buildings that meet the definition."

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

⁴ See, e.g., *Rural Cellular Ass'n v. Fed. Comm'n's 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.

Of note, the public comment period for the RFI was issued at the beginning of the new year and encompasses a federal holiday⁶ when many stakeholders are away from work. The limited staff available to review the RFI during this time will make it difficult to develop meaningful comments in response to the RFI. As the RFI will have such far-reaching consequences, an additional 30 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 request.

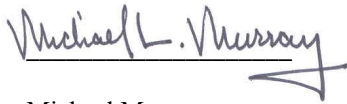
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Given the numerous compounding factors impacting stakeholders' ability to develop meaningful comments in the allotted time, DOE should extend the comment period by at least an additional 30 days. This will allow adequate time for all stakeholders to review and understand the RFI and any associated materials and market impacts in order to develop meaningful comments on this important issue.

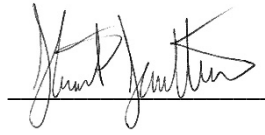
Joint Requesters thank you for the review and consideration of this letter. If you have any questions regarding this submission, please do not hesitate to contact the undersigned.

Respectfully submitted,

⁶ The federal holiday encompassed by the comment period was Martin Luther King Jr. Day, which was observed on January 15, 2024.



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