



January 25, 2024

Ronald A. Jordan  
Consumer Product Safety Commission  
4330 East West Highway  
Bethesda, MD 20814  
[rjordan@cpsc.gov](mailto:rjordan@cpsc.gov)

***SUBMITTED VIA THE FEDERAL E-RULEMAKING PORTAL AT REGULATIONS.GOV***

**Re: *Safety Standard for Residential Gas Furnaces and Boilers*; Notice of Proposed Rulemaking; Notice of Opportunity for Oral Presentation of Comments [CPSC 2019-0020]**

Mr. Jordan:

The American Gas Association (“AGA”), American Public Gas Association (“APGA”), and National Propane Gas Association (“NPGA”) (collectively, “Joint Commenters”) respectfully submit this comment in response to the Consumer Product Safety Commission’s (“CPSC”) Notice of Proposed Rulemaking (“NOPR”) pertaining to Safety Standard for Residential Gas Furnaces and Boilers.<sup>1</sup> The CPSC proposed the rulemaking based on its preliminary determination that there is an unreasonable risk of injury and death association with residential gas furnaces.<sup>2</sup> Joint Commenters offer the below comments in response to this NOPR.

**INTERESTS**

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.<sup>3</sup>

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

---

<sup>1</sup> *Safety Standard for Residential Gas Furnaces and Boilers*; Notice of Proposed Rulemaking; Notice of Opportunity for Oral Presentation of Comments, 88 Fed. Reg. 73272 (Oct. 25, 2023) (hereinafter, “NOPR”).

<sup>2</sup> *Id.*

<sup>3</sup> For more information, please visit [www.aga.org](http://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.<sup>4</sup>

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. NPGA members manufacture, service, and provide fuel to residential gas furnaces and boilers, and would be profoundly impacted by the NOPR.

## **PROCEDURAL HISTORY**

On August 19, 2019, the CPSC published an advance notice of proposed rulemaking to address the risk of injury associated with residential gas furnaces and boilers from carbon monoxide production in leakage.<sup>5</sup> The CPSC received 15 comments on that rulemaking,<sup>6</sup> which it summarizes and responds to in the current NOPR.<sup>7</sup>

## **CPSC'S ANALYSIS OF RISK**

The CPSC states that incomplete combustion of the fuel supplied to gas appliances can lead to the production of hazardous levels of carbon monoxide.<sup>8</sup> The CPSC also has determined that a potential carbon monoxide hazard in a home can arise if the combustion system of a gas furnace or boiler malfunctions and produces hazardous levels of carbon monoxide, which a compromised exhaust system then allows to leak into the occupied space of the home.<sup>9</sup> Notably, the CPSC does not link either of these potential causes to the risks of harm or death it states earlier in the proposed rulemaking, undermining whether or not the CPSC's proposed risks of injury are in fact tied to the injuries themselves.

## **COST ANALYSIS**

The CPSC provides a cost-benefit analysis of the rule as part of its preliminary regulatory analysis.<sup>10</sup> However, this analysis is cursory at best and does not provide any of the underlying data or assumptions necessary for proper review. The CPSC's cost-benefit analysis found that

---

<sup>4</sup> For more information, please visit [www.apga.org](http://www.apga.org).

<sup>5</sup> 84 Fed. Reg. 42847.

<sup>6</sup> *Id.*

<sup>7</sup> 88 Fed. Reg. 73280.

<sup>8</sup> NOPR at 73275.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 73285.

there are 59 cents of benefit for every dollar of cost. A CPSC release that announced the proposal, stated that “[s]taff conducted alternative cost-benefit analyses, and in none of those did quantifiable benefits exceed the quantifiable costs.”<sup>11</sup> CPSC cannot issue a mandatory rule that will not withstand regulatory or legal scrutiny and as such, cannot be the basis of a mandatory federal regulation.

## **MANUFACTURER IMPACT ANALYSIS**

The CPSC provides a manufacturer impact analysis of the rule as part of its initial regulatory flexibility analysis.<sup>12</sup> However, this analysis is cursory at best, and does not provide any of the underlying data or assumptions necessary for proper review. The CPSC’s similar minimal submission on the impact on manufacturers cannot withstand regulatory or legal scrutiny and must be supplemented in order to allow for thorough review of the CPSC’s assumptions and calculations.

## **RELIABILITY**

In its proposed rule, the CPSC uses international examples as methods of measuring carbon monoxide within consumer furnaces and boilers.<sup>13</sup> However, the CPSC does not analyze the reliability of these methods, only their feasibility.<sup>14</sup> The CPSC’s responses to comments on this issue were cursory and dismissive, and failed to evaluate the reliability and durability of the sensors.<sup>15</sup> Given its failure to evaluate the reliability and durability of the proposed sensors, the CPSC cannot establish with any confidence that its proposed mandate will accomplish the solutions it seeks.

## **ALTERNATIVES**

The CPSC’s proposed rule includes comments from its 2019 Advanced Notice of Proposed Rulemaking regarding consumer gas furnaces and boilers.<sup>16</sup> In those comments, the Air Conditioning, Heating, and Refrigeration Institute (“AHRI”), along with a number of manufacturers, noted that this rulemaking is unnecessary because residential carbon monoxide alarms will prevent consumer poisoning. The CPSC responded by noting that it does not have the statutory authority to mandate that consumers install carbon monoxide alarms in their homes.

The CPSC’s statement illustrates its overreach in this rulemaking. Any potential concern with residential gas furnaces and boilers is not a manufacturing issue subject to the CPSC’s authority, but rather, a building code issue subject to the authority of state and local governments, charged

---

<sup>11</sup> “Statement of Commissioner Peter A. Feldman Requesting Comments on Proposed Safety Standard for Gas Furnaces,” October 11, 2023, available at <https://www.cpsc.gov/About-CPSC/Commissioner/Peter-A-Feldman/Statement/Statement-of-Commissioner-Peter-A-Feldman-Requesting-Comments-on-Proposed-Safety-Standard-for-Gas-Furnaces> (last visited January 25, 2024).

<sup>12</sup> NOPR at 73286.

<sup>13</sup> *Id.* at 73278-80.

<sup>14</sup> *Id.* at 73280.

<sup>15</sup> *Id.* at 73282.

<sup>16</sup> *Id.* at 73280.

with protecting the health, safety, and general welfare. In fact, according to the National Council on State Legislatures, 27 states already require carbon monoxide alarms in homes.<sup>17</sup> The CPSC's stated problem is already being addressed by the appropriate state and local authorities, and as a consequence, the rulemaking is unnecessary, duplicative, and needlessly burdensome.

The CPSC has also not provided data to show how the deaths it notes in its rulemaking align with these existing requirements. The NOPR reported that "from the time period of 2017 to 2019 (the most recent period for which data are complete), there were annually an estimated 21 CO-related deaths associated with gas furnaces and boilers (burning liquefied petroleum, natural gas, and unspecified gas). For the 20-year period, 2000 through 2019, these products were associated with a total of 539 deaths from CO poisoning."<sup>18</sup> Regarding injury estimates, the NOPR reported that "[s]taff identified 236 nonfatal injuries related to CO leakages from gas furnaces and boilers that occurred during this period. Of the 236 nonfatal injuries, 18 resulted in hospital admissions via the emergency department ("ED"), and 218 were treated in the ED and released."<sup>19</sup> There can be no denial that the wider implementation of CO alarm requirements in building codes for new homes and buildings as well as retrofitting existing homes and buildings will reduce future incidents of CO events. The CO alarms will not only add consumers protection from gas heating equipment failures, but also from other CO sources from automobile exhausts, portable generators, etc. The anticipated lowering of CO incidents will also impact the already lack of cost benefit of the proposed rule.

The CPSC also fails to address alternatives directly tied to the risk of injury. However, it goes beyond its authority in order to mandate a separate requirement, which only notifies a consumer of an underlying problem, rather than directly addressing the problem itself. This indirect, byzantine method of regulation is ineffective and counterproductive, and should be reevaluated.

## **CONCLUSION**

Joint commentors have a long history of supporting provisions in safety standards that provide improvements with effective methods and components that add protection for consumer products; however, this requirement fails to add such protection. It also fails from a cost benefit analysis and can result in the unintended consequence of increased nuisance outages that will only subject consumers with added heating equipment maintenance calls. For the above reasons, Joint Commenters urge the CPSC to withdraw the NOPR, as the Commission lacks the necessary authority and justification to promulgate such a requirement on appliance manufacturers. Joint Commenters appreciate your consideration of these comments. Please do not hesitate to contact any of us directly if you have questions.

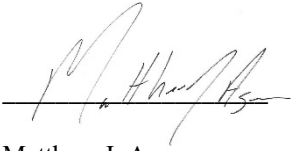
---

<sup>17</sup> [Carbon Monoxide Detector Requirements, Laws and Regulations \(ncsl.org\)](https://www.ncsl.org/research/building-construction/safety/carbon-monoxide-detector-requirements-laws-and-regulations.aspx) (last accessed December 4, 2023); *see also* International Fire Code, Section 915 (2021) (noting requirements for carbon monoxide alarms) *and* National Fire Protection Association, Code 1 ("NFPA 1"), Section 13.7 (2024) (noting requirements for carbon monoxide alarms in residential buildings). Jurisdictions which adopt NFPA 1 and the International Fire Code will have redundant requirements under the Proposed Rule.


<sup>18</sup> NOPR at 73275.

<sup>19</sup> *Id.*

Respectfully submitted,



Matthew J. Agen  
Chief Regulatory Counsel, Energy  
American Gas Association  
400 N. Capitol Street, NW  
Washington, DC 20001  
[magen@aga.org](mailto:magen@aga.org)



Stuart Saulters  
Vice President of Government Relations  
American Public Gas Association  
201 Massachusetts Avenue NE, Suite C-4  
Washington, DC 20002  
[ssaulters@apga.org](mailto:ssaulters@apga.org)



Benjamin Nussdorf  
Vice President, Regulatory & Industry Affairs  
National Propane Gas Association  
1140 Connecticut Ave., NW  
Suite 1075  
Washington, DC 20036  
[bnussdorf@npga.org](mailto:bnussdorf@npga.org)