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[6450-01-P]

**DEPARTMENT OF ENERGY**

**10 CFR Part 430**

**[EERE-2026-BT-STD-0001]**

**Energy Conservation Program: Notification of Petition for Rulemaking**

**AGENCY:** Office of Critical Minerals and Energy Innovation, Department of Energy.

**ACTION:** Notification of petition for rulemaking; request for comment.

**SUMMARY:** On February 19, 2026, the Department of Energy (DOE) received a petition from the American Gas Association (AGA), the American Public Gas Association (APGA), and the National Propane Gas Association (NPGA) asking DOE to amend the compliance dates for two energy conservation standards final rules for commercial water heating equipment and consumer furnaces. Through this notification, DOE is seeking comment on whether it should grant the petition and undertake a rulemaking to consider the proposal contained in the petition, as well as any data or information that may be relevant to DOE's consideration of the petition.

**DATES:** Written comments and information are requested and will be accepted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov* under docket number EERE-2026-BT-STD-0001. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE-2026-BT-STD-0001, by any of the following methods:

- (1) *Email: CommWaterHtgandConsFurnacePetition2026STD0001@ee.doe.gov*. Include the docket number EERE-2026-BT-STD-0001 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.
- (2) *Postal Mail: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop CM-5B, 1000 Independence Avenue, SW., Washington, DC, 20585-0121*. If possible, please submit all items on a compact disc (“CD”), in which case it is not necessary to include printed copies.
- (3) *Hand Delivery/Courier: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 287-1445*. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (“faxes”) will be accepted. For detailed instructions on submitting comments and additional information on this process, see the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* The docket for this activity, which includes *Federal Register* notices, comments, and other supporting documents/materials, is available for review at *www.regulations.gov*. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket webpage can be found at *www.regulations.gov/docket/EERE-2026-BT-STD-0001*. The docket webpage contains instructions on how to access all documents, including public comments, in the docket.

**FOR FURTHER INFORMATION CONTACT:** Ms. Julia Hegarty, U.S. Department of Energy, Office of Critical Minerals and Energy Innovation, Building Technologies Office, CM-5B, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 586-0729. Email: *ApplianceStandardsQuestions@ee.doe.gov*.

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 586-4798. Email: *Eric.Stas@hq.doe.gov*.

For further information on how to submit a comment, or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov*.

**SUPPLEMENTARY INFORMATION:** The Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, provides among other things, that “[e]ach agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.” (5 U.S.C. 553(e))

DOE received a petition from AGA, APGA, and NPGA (hereinafter “AGA *et al.*”) as described in this document and set forth verbatim below,<sup>1</sup> requesting that DOE extend the compliance dates for its most recently promulgated energy conservation standards for commercial water heaters (currently October 6, 2026) and consumer furnaces (currently December 18, 2028) until January 1, 2030, at a minimum. In their petition, AGA *et al.* argued that amending the compliance dates would align with Administration priorities of addressing affordability by limiting costs for American households and preserving homeowner energy choice. The petition also argued that extending the compliance date would reduce regulatory

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<sup>1</sup> The AGA *et al.* petition for rulemaking is available in the docket at [www.regulations.gov/document/EERE-2026-BT-STD-0001-0001](http://www.regulations.gov/document/EERE-2026-BT-STD-0001-0001).

burden and uncertainty for manufacturers, especially in light of a pending appeal in related litigation and planned DOE rulemakings touching on the same topics.

In a final rule published in the *Federal Register* on October 6, 2023 (88 FR 69686), DOE adopted amended energy conservation standards for commercial water heating equipment. These standards were codified in DOE's regulations in the Code of Federal Regulations (CFR) at 10 CFR 431.110. Of particular relevance here, the thermal efficiency (TE) standards for gas-fired storage water heaters and storage-type instantaneous water heaters (95% TE) and gas-fired instantaneous water heaters and hot water supply boilers (96% TE) were set at levels that effectively require the use of condensing technology. The compliance date for the amended energy conservation standards for commercial water heaters is October 6, 2026.

In a final rule published in the *Federal Register* on December 18, 2023 (88 FR 87502), DOE adopted amended energy conservation standards for certain consumer furnaces. These standards were codified in DOE's regulations at 10 CFR 430.32(e). This final rule set the annual fuel utilization efficiency (AFUE) standards for non-weatherized gas furnaces (95% AFUE) and mobile home gas furnaces (95% AFUE) at levels that effectively require the use of condensing technology. The compliance date for the amended energy conservation standards for the subject consumer furnaces is December 18, 2028.

In announcing this petition for public comment, DOE is seeking views on whether it should grant the petition and undertake a rulemaking to consider the proposal contained in the petition. DOE welcomes comments on any aspect of the petition.

## Submission of Comments

DOE will accept comments, data, and information regarding this petition no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

*Submitting comments via [www.regulations.gov](http://www.regulations.gov).* The *www.regulations.gov* webpage will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. If this instruction is followed, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

*Submitting comments via email, hand delivery/courier, or postal mail.* Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all

items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (“faxes”) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English, and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

*Campaign form letters.* Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters’ names compiled into one or more PDFs. This reduces comment processing and posting time.

*Confidential Business Information.* Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked “confidential” including all the information believed to be confidential, and one copy of the document marked “non-confidential” with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

### **Approval of the Office of the Secretary**

The Secretary of Energy has approved publication of this notification of petition for rulemaking and request for comment.

### **Signing Authority**

This document of the Department of Energy was signed on April 23, 2026, by Audrey Robertson, Assistant Secretary (EERE) for Critical Minerals and Energy Innovation, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on April 23, 2026.

**AUDREY  
ROBERTSON**

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Audrey Robertson  
Assistant Secretary (EERE)  
for Critical Minerals and Energy Innovation  
U.S. Department of Energy

## PETITION FOR AMENDMENT

February 19, 2026

Audrey Robertson  
Assistant Secretary of Energy  
U.S. Department of Energy  
1000 Independence Avenue SW  
Washington, DC 20585-0121

**Re: Request to Amend the Compliance Dates for *Energy Conservation Program: Energy Conservation Standards for Commercial Water Heating Equipment*, 88 Fed. Reg. 69,686 (Oct. 6, 2023); and *Energy Conservation Program: Energy Conservation Standards for Consumer Furnaces*, 88 Fed. Reg. 87,502 (Dec. 18, 2023)**

Assistant Secretary Robertson,

The American Gas Association (“AGA”), American Public Gas Association (“APGA”), and National Propane Gas Association (“NPGA”) (collectively, “Joint Requesters”) respectfully request pursuant to the Energy Policy and Conservation Act (“EPCA”)<sup>1</sup> and the Administrative Procedure Act (“APA”),<sup>2</sup> that the Department of Energy (“Department” or “DOE”) amend the compliance dates for the following rules: (1) *Energy Conservation Program: Energy Conservation Standards for Commercial Water Heating Equipment*, 88 Fed. Reg. 69,686 (Oct. 6,

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<sup>1</sup> EPCA authorizes the Secretary of Energy to issue rules necessary to carry out EPCA’s provisions regarding consumer products. 42 U.S.C. § 6298. EPCA also applies those provisions to specified categories of commercial equipment, including commercial water heating equipment. 42 U.S.C. § 6316(b)(1).

<sup>2</sup> Interested persons may petition an agency for the issuance, amendment, or repeal of a rule under the APA. *See* 5 U.S.C. § 553(e).

2023) (“Commercial Water Heater Rule”);<sup>3</sup> and (2) *Energy Conservation Program: Energy Conservation Standards for Consumer Furnaces*, 88 Fed. Reg. 87,502 (Dec. 18, 2023) (“Consumer Furnace Rule”).<sup>4</sup> The compliance date for the Commercial Water Heater Rule is currently October 6, 2026,<sup>5</sup> and the compliance date for the Consumer Furnace Rule is December 18, 2028.<sup>6</sup> For the reasons discussed below, DOE should amend the compliance dates to provide regulatory certainty while Supreme Court review of these rules is pending and related matters remain active. Amending the compliance dates would also aid in maintaining energy affordability by providing manufacturer certainty and preserving homeowner energy choice. The Administration has emphasized reducing cost-of-living expenses for Americans and is actively taking steps to address affordability.<sup>7</sup> Amending the compliance dates would align with the Administration’s priorities of reducing regulatory burdens and helping to limit costs for American households. The compliance dates for these rules will influence near-term manufacturing, distribution, and installation decisions, which in turn will have a significant cost impact for American homes and businesses. Specifically, the Department should amend the compliance dates for the Commercial Water Heater Rule and the Consumer Furnace Rule to January 1, 2030, at a minimum to permit the conclusion of judicial and regulatory processes that could impact the aforementioned rules.

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<sup>3</sup> *Energy Conservation Program: Energy Conservation Standards for Commercial Water Heating Equipment*, 88 Fed. Reg. 69,686 (Oct. 6, 2023) (codified at 10 C.F.R. §§ 431.102, 431.105(a), and 431.110).

<sup>4</sup> *Energy Conservation Program: Energy Conservation Standards for Consumer Furnaces*, 88 Fed. Reg. 87,502 (Dec. 18, 2023) (codified at 10 C.F.R. §§ 430.32(e)(1)(ii)-(iii)).

<sup>5</sup> 42 U.S.C. §§ 6313(a)(6)(C)(i)-(ii).

<sup>6</sup> 42 U.S.C. § 6295(o)(6)(A)(ii) (furnaces: apply to products manufactured after the date that is 5 years after publication).

<sup>7</sup> Exec. Order No. 14,154, 90 Fed. Reg. 8,353 (Jan. 20, 2025); Presidential Memorandum on Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis, 90 Fed. Reg. 8,245 (Jan. 20, 2025).

## **I. Identify and Interest**

AGA, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 79 million residential, commercial, and industrial natural gas customers in the U.S., of which 94 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.<sup>8</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 they serve. Public gas systems focus on safely providing 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>9</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

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<sup>8</sup> For more information, please visit [www.aga.org](http://www.aga.org).

<sup>9</sup> For more information, please visit [www.apga.org](http://www.apga.org).

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.

Joint Requesters' members serve residential and commercial consumers, the majority of whom use natural gas appliances, such as furnaces, boilers, water heaters, *etc.* Therefore, Joint Requesters have a direct and vital interest in both the minimum efficiency standards for these products and appliances and the procedures used by the Department to adopt such standards.

## **II. The Department Should Promptly Amend the Compliance Dates for the Commercial Water Heater Rule and the Consumer Furnace Rule.**

Joint Requesters request that DOE promptly amend the compliance dates for the Commercial Water Heater Rule and the Consumer Furnace Rule in order to protect consumers and their choice of energy and appliances, which will also help ensure energy affordability. This process should be completed pursuant to the Department's authority under EPCA, and consistent with APA requirements.<sup>10</sup> Amending the compliance dates would provide regulatory certainty, allow pertinent legal and regulatory processes to be completed, and be consistent with recently issued Executive Orders.

Specifically, there is a proceeding pending at the Supreme Court concerning the rules, the Spring 2025 Unified Agenda of Federal Regulatory and Deregulatory Actions includes an item that could impact the rules, and the potential changes to DOE's Process Rule are currently pending at the Office of Management and Budget ("OMB"). The combination of these activities

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<sup>10</sup> 5 U.S.C. § 551, *et seq.*

warrants prompt DOE action to provide clarity and prevent unnecessary disruption by amending the compliance dates for the Commercial Water Heater Rule and the Consumer Furnace Rule.

**A. Amendment of the Compliance Deadlines to Allow for Additional Lead Time Is Warranted to Ensure Consumer Affordability and Minimize Cost Impacts.**

The compliance dates for these rules will drive near-term manufacturing, distribution, and installation decisions that can translate to significant cost impacts for residential and commercial customers. Providing additional lead time for potential compliance with the rules would help minimize the adverse impacts of the rules and allow DOE sufficient time to fully consider the impacts of the rules on the millions of American households and small businesses that will be affected.

Executive Order 14154, “Unleashing American Energy,” directs the heads of all agencies to review “all existing regulations, orders, guidance documents, policies, settlements, consent orders, and any other agency actions” to identify those that impose an undue burden on the identification, development, or use of domestic energy resources, including restrictions on consumer choice of vehicles and appliances. *See* 90 Fed. Reg. 8,353 (Jan. 20, 2025). DOE has recently taken steps in other contexts to prevent near-term compliance burdens, including staying a compliance date for DOE’s “Clean Energy for New Federal Buildings and Major Renovations of Federal Buildings” provisions from May 1, 2025, until May1, 2026, during DOE’s review of implementation guidance.<sup>11</sup> In December 2025, DOE rescinded its support for the National Definition of a “Zero Emissions” Building, stating that DOE no longer supports the definition and that it is inconsistent with current Administration priorities.<sup>12</sup> These actions show DOE is

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<sup>11</sup> *Clean Energy for New Federal Buildings and Major Renovations of Federal Buildings*; Stay, 90 Fed. Reg. 18,911 (May 5, 2025).

<sup>12</sup> *Removing Support for the National Definition of a Zero Emissions Building*, 90 Fed. Reg. 55,722 (Dec. 3, 2025).

working to avoid unnecessary compliance burdens while similar policies are under review. The same approach supports DOE's consideration of an amendment here to reduce stranded investments and near-term cost impacts on consumers.

The Department's prompt action to amend the compliance timing is necessary. Additionally, this action would be consistent with the Administration's affordability and cost-of-living priorities. Revising the compliance dates would also be in line with the Administration's commitment to promoting energy affordability, preserving fuel choice, and reducing regulatory burdens.<sup>13</sup> DOE has withdrawn or postponed various conservation standards, simplified its water conservation standards by repealing a definition of a "showerhead," delayed the effective dates of efficiency standards for walk-in coolers and freezers and consumer gas-fired instantaneous water heaters (and subsequently withdrew those two standards), and delayed the effective dates of test procedures for central air conditioners and heat pumps.<sup>14</sup>

U.S. consumers are likely to suffer irreparable injury absent amended compliance dates. Moreover, manufacturers of the covered products and associated venting equipment have no choice now but to spend millions of dollars preparing to comply with the rules, and many of those expenditures will be stranded if the rules are ultimately deemed unlawful. Moreover, the rules will be onerous on American families and notably will raise costs for a large number of

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<sup>13</sup> Exec. Order No. 14154, 90 Fed. Reg. 8,353; Presidential Memorandum on Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis, 90 Fed. Reg. 8,245.

<sup>14</sup> See *Energy Conservation Program: Water Conservation Standards*; Repeal of the Definition of Showerhead, 90 Fed. Reg. 15,647 (Apr. 15, 2025); *Energy Conservation Program: Energy Conservation Standards for Walk-In Coolers and Walk-In Freezers*, 90 Fed. Reg. 9,951-9,952 (Feb. 20, 2025) (delay of effective date), 90 Fed. Reg. 13,054-13,055 (Mar. 20, 2025) (further delay of effective date), 90 Fed. Reg. 21,391-21,392 (May 20, 2025) (withdrawal); *Energy Conservation Program: Energy Conservation Standards for Consumer Gas-Fired Instantaneous Water Heaters*, 90 Fed. Reg. 9,951 (Feb. 20, 2025) (delay of effective date), 90 Fed. Reg. 13,054 (Mar. 20, 2025) (further delay of effective date), 90 Fed. Reg. 21,390-21,391 (May 20, 2025) (withdrawal); *Energy Conservation Program: Test Procedures for Central Air Conditioners and Heat Pumps*, 90 Fed. Reg. 9,001 (Feb. 5, 2025) (delay of effective date), 90 Fed. Reg. 13,052-13,053 (Mar. 20, 2025) (further delay of effective date), 90 Fed. Reg. 21,389-21,390 (May 20, 2025) (further delay of effective date).

senior-only households, low-income households, and small business consumers. Natural gas is 3.5 times more affordable than electricity and significantly more affordable than several other residential energy sources for the same amount of energy delivered. Households that use natural gas for heating, cooking, and clothes drying save an average of \$1,030 per year compared to homes using electricity for those applications. Propane shows cost savings over electric as well; per But electricity is 1.4 times more expensive than propane.<sup>15</sup> This cost differential is even more pronounced in areas of the country that are both cold and have above average electricity prices, including the Mid-Atlantic and Northeast regions,<sup>16</sup> as space and water heating are the two most energy-intensive applications in most American homes.<sup>17</sup>

Specifically, non-condensing furnaces, which will be banned from manufacturing under the Consumer Furnace Rule, make up approximately 55% of the market for natural gas furnaces in the United States, cannot be replaced by other furnace types, and their removal from the market would saddle families with a challenging choice: perform costly renovations on their home or eliminate gas as a home heating option all together. The Department's own data shows that the Consumer Furnace Rule would negatively impact costs for 30% of senior-only households, 26% of low-income households, and 27% of small business consumers. For households with mobile home gas furnaces, 39% of consumers would be negatively affected by the proposed standard, showing a disproportionate impact on America's low-income households. Prompt action amending the compliance deadlines for these rules would mark another important

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<sup>15</sup> *Energy Conservation Program for Consumer Products: Representative Average Unit Costs of Energy*, 89 Fed. Reg. 83,672, (Oct. 17, 2024).

<sup>16</sup> Table 2.10: Average Price of Electricity to Ultimate Customers by End-Use Sector, U.S. Energy Information Administration, (2025), available at [https://www.eia.gov/electricity/annual/html/epa\\_02\\_10.html](https://www.eia.gov/electricity/annual/html/epa_02_10.html).

<sup>17</sup> *Today in Energy: Space heating and water heating account for nearly two thirds of home energy use*, U.S. Energy Information Administration, (Nov. 7, 2018), available at <https://www.eia.gov/todayinenergy/detail.php?id=37433>.

step in the Administration’s commitment to lower costs for American consumer and is consistent with the Administration’s emphasis on affordability and cost-of-living considerations.

**B. Amendment of the Compliance Deadlines Is Warranted Because Issues Related to These Rules Are Pending in the Current Unified Agenda of Federal Regulatory and Deregulatory Actions and in a Rulemaking Proceeding that Is Currently Under Executive Branch Review.**

The Spring 2025 Unified Agenda of Federal Regulatory and Deregulatory Actions (“Unified Agenda”) for the Department includes a matter titled “Interpretive Rulemaking Regarding Energy Conservation Standards for Residential Furnaces and Commercial Water Heaters (and Similarly-Situated Products/Equipment)” (“Interpretive Rule”).<sup>18</sup> The Unified Agenda’s abstract states that the Department is reexamining an interpretive rule related to residential furnaces, commercial water heaters, and similarly-situated products/equipment and the use of non-condensing and condensing technology.<sup>19</sup> The Department states that it is reexamining its earlier interpretation in accordance with Executive Order 14154, “Unleashing American Energy,” and Presidential Memorandum titled “Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis.”<sup>20</sup> Changes to the Interpretive Rule could impact the legal and regulatory principles that underpin the Commercial Water Heater Rule and the Consumer Furnace Rule.

In addition, a matter titled “Procedures, Interpretations, and Policies for Consideration in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and

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<sup>18</sup> See RIN 1904-AF71.

<sup>19</sup> See <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202504&RIN=1904-AF71>.

<sup>20</sup> Exec. Order No. 14154, 90 Fed. Reg. 8,353; Presidential Memorandum on Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis, 90 Fed. Reg. 8,245.

Commercial/Industrial Equipment” (“Process Rule”) appears in the Unified Agenda.<sup>21</sup> The Unified Agenda’s abstract states that the Department “is considering a notice-and-comment rulemaking to amend its Process Improvement Rule to reflect statutory changes as well as innovative, collaborative approaches to reflect more efficient rulemaking.”<sup>22</sup> Moreover, the Process Rule was received at OMB on January 9, 2026, and is currently pending review by the Office of Information and Regulatory Affairs. Because changes to the Process Rule and Interpretive Rule could affect how DOE approaches standards rulemakings, amending the compliance dates now would help avoid forcing manufacturers and consumers to make irreversible transition investments while DOE is considering these matters.

### **C. Amendment of the Compliance Deadlines Is Warranted Due to Pending Supreme Court Review of These Rules.**

On January 20, 2026, AGA, APGA, NPGA, and NCTP, Inc., doing business as Thermo Products (“Petitioners”) petitioned the U.S. Supreme Court to review the D.C. Circuit decision upholding DOE’s Consumer Furnace Rule and Commercial Water Heater Rule.<sup>23</sup> The petition maintains that the lower court inappropriately deferred to the Department in violation of *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 395 (2024), and the majority erred in analyzing the sections of EPCA that protected performance characteristics. The interests of justice require amendment of the compliance dates for the Commercial Water Heater Rule and the Consumer Furnace Rule pending judicial review. First, there is significant likelihood that Petitioners will succeed on the merits in a challenge of both rules at the Supreme Court.<sup>24</sup> Second, if the Court

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<sup>21</sup> See RIN 1904-AF72.

<sup>22</sup> See <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202504&RIN=1904-AF72>.

<sup>23</sup> Petition for Writ of Certiorari at Supreme Court of the United State, AGA v. DOE, No. 25-879 (Jan. 20, 2026).

<sup>24</sup> *Id.*

grants certiorari, the briefing could extend for months, and it could be some time before the Court issues an opinion. Hence, a decision may not be issued until 2027, after the compliance date for the Commercial Water Heater Rule.

In short, the pending petition for writ of certiorari creates near-term uncertainty for manufacturers and the market. Specifically, it creates uncertainty for manufacturers, distributors, contractors, and consumers who must plan for compliance in advance of the compliance dates. This uncertainty is particularly relevant for the Commercial Water Heater Rule, given the proximity of the current compliance date (October 6, 2026) and the lead times associated with the rule. Finally, an amendment of the compliance dates pending judicial review will not substantially injure other parties or undermine the public interest. In summary, “[t]here is generally no public interest in the perpetuation of unlawful agency action.” *Shawnee Tribe v. Mnuchin*, 984 F.3d 94, 102 (D.C. Cir. 2021) (internal quotation marks omitted). In conclusion, prompt action by DOE to amend the compliance dates would provide greater regulatory certainty and reduce the risk of disruption and compliance expenditures while Petitioners’ petition for writ of certiorari is pending.

### **III. Conclusion**

For the reasons stated above, Joint Requesters respectfully request that the Department amend the compliance dates for the Commercial Water Heater Rule and the Consumer Furnace Rule. If you have any questions regarding this submission, please do not hesitate to contact the undersigned.

Respectfully submitted,

/S/

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/S/

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cc: Michael Helmer, Principal Deputy Assistant Secretary  
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and Consumer Choice