

From: Williams, Ted[SMTP:TWILLIAMS@AGA.ORG]
Sent: Monday, March 29, 2010 1:11:33 PM
To: MAExemptPetition
Cc: Ranfone, Jim
Subject: Docket Number EERE-BT- PET-0024: "Massachusetts Petition"
Auto forwarded by a Rule

Sir/Madam:

Attached are the comments of the American Gas Association (AGA) on the subject petition.

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March 29, 2010

Ms. Brenda Edwards
U.S. Department of Energy
Building Technologies Program
Mailstop EE-2J, Room 1J-018
1000 Independence Avenue, SW
Washington, DC 20585-0121

Subject: Massachusetts Petition for Exemption from Preemption, Docket No. EERE-BT-PET-0024: Comments of the American Gas Association

Dear Ms. Edwards:

The American Gas Association (AGA) is a national trade association whose membership includes 195 local energy companies that deliver clean natural gas throughout the United States. There are more than 70 million residential, commercial and industrial natural gas customers in the U.S., of which 91 percent — more than 64 million customers — receive their gas from AGA members. Today, natural gas meets almost one-fourth of the United States' energy needs.

AGA appreciates the opportunity to comment on the subject petition of the Commonwealth of Massachusetts for a waiver of federal preemption for its 90% AFUE minimum efficiency standard for residential gas-fired furnaces.

The U. S. Department of Energy (DOE) announced Furnace Rulemaking Analysis Plan (RAP) Covering Residential Furnaces (Federal Register, vol. 75, no. 49, March 15, 2010, pp. 12144-12148) and Subsequent Minimum Efficiency Rule Should Be Completed in Lieu of Granting the Massachusetts Waiver Petition. With the issuance of the March 15, 2010 Federal Register by DOE announcing the “Notice of public meeting and availability of a rulemaking plan” specifically targeted at evaluating regional standards for residential furnaces, AGA believes that DOE should decline to grant the Massachusetts petition pending its final rule on residential furnaces since it will determine the economic justification and technical feasibility of mandating a 90% AFUE minimum efficiency requirement in states greater than 5,000 Heating Degree Days (HDD>5,000) that includes Massachusetts.

As noted in the Federal Register announcement of the RAP process, the Commonwealth of Massachusetts was one of the petitioners filing a joint lawsuit in the Second Circuit Court against DOE and its issuance of its November 2007 Final Rule on residential furnace efficiency. As stated:

“On April 16, 2009, DOE and the petitioners agreed to a voluntary remand that would require DOE to revisit its initial conclusions outlined in the November 2007 final rule. As part of the remand agreement, DOE has until May 1, 2011 to issue a final rule amending the energy conservation standards for residential furnaces.” (Federal Register, vol. 75, no. 49, p. 12145)

With DOE authority to promulgate a regional minimum efficiency standard for residential furnaces in states where HDD>5,000 and responding to a “joint comment” for raising the minimum efficiency in these states to 90% AFUE, DOE has the full means for responding to the issues of the Commonwealth of Massachusetts Waiver Petition within the federal minimum efficiency rulemaking process. Furthermore, addressing the issues of consumers and stakeholders in these states is best served by the open and transparent processes of the DOE rulemaking process. AGA is committed to work within this process to address specific consumer and stakeholder issues in consideration of a 90% AFUE minimum standard for HDD>5,000.

In this regard, AGA believes that the RAP must include an evaluation on the impact of a 90% AFUE mandate on consumers, particularly in the furnace replacement market. One aspect not covered by the Massachusetts petition is that the 90% AFUE furnaces have positive pressure in the venting systems, thus prohibiting the direct replacement of a common vented application, i.e., gas furnace and gas water heater common vented into a masonry chimney, which is an extremely common venting arrangement in northern climates. This would no longer be permitted in the replacement market adding both cost (i.e. relining the masonry chimney to accommodate the gas water heater), and potential safety concern if the remaining water heater vent is not resized to permit the proper venting of combustion products from the water heater. In addition, the venting of the 90% AFUE furnace (positive vent) would need to a dedicated vent discharged to an appropriate outside area that may not be in close proximity of the furnace. The fact that all 90% AFUE furnaces have positive vent pressures and require a dedicated venting system alters the performance characteristic of the “common vented” applications and would significantly burden sales of the product. This alone should be enough grounds for DOE to deny the petition.

It should be noted that the DOE analysis of HDD>5,000 to date does not separate out these fundamental venting issues between with new construction and furnace replacement markets and their associated installation cost differences. Through the RAP and subsequent analysis, AGA expects that these markets and associated installation costs will be properly assessed so that consumer impacts can be fully accounted for. Granting the Commonwealth of Massachusetts Waiver Petition would all but paper over these issues and impacts to consumers. AGA note that in the HDD>5,000 analysis accompanying

the November 2007 final rule, DOE found that 23% of consumers would experience “net cost” from a 90% AFUE minimum standard, 47% would experience “no impact” (i.e., neither positive or negative life-cycle cost impact). Since the DOE HDD>5,000 analysis, as documented, does not break out the new construction and replacement markets, AGA can only deduce that replacement market (roughly 70% of all shipments of furnaces) is the cohort of customers expected to experience “net cost” or “no impact.” Only a properly scoped and executed RAP analysis can address these uncertainties.

Other aspects of the Massachusetts waiver request that need to be considered by DOE are the unintended consequences of moving the market (i.e. fuel switching) from natural gas to electricity or fuel oil since these products are not addressed by the petition and as a result could gain market share at the expense of natural gas. While this may not have been the intent of the Commonwealth of Massachusetts Waiver Petition, this is a real possibility because of the lower first and installed cost of oil and electric furnaces both of which provide more emissions when measured at the source, than natural gas furnaces. AGA notes that, according to 2000 Energy Information Administration (EIA data), the Commonwealth of Massachusetts has significant shares of electricity and oil usage for primary space heating:

... for Home Heating (share of households)	Massachusetts	U. S. Average
Natural Gas	44%	51.2%
Fuel Oil	39%	9.0%
Electricity	12%	30.3%
Liquefied Petroleum Gases	3%	6.5%
Other/None	2%	1.8%

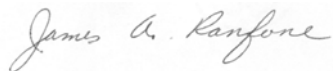
AGA concludes, based on these current market shares for home heating, that substitutes for overly expensive installations of natural gas furnaces are viable, if undesirable in terms of full-fuel cycle energy consumption and emissions implications.

Finally, the 90% AFUE requirement would also impact low income consumers who may opt to attempt to repair an existing lower efficient furnace rather than invest in a 90% AFUE furnace. These consumers may have no other cost effective option to consider. Manufactured home owners may be similarly affect since purchasing a 90% AFUE model would require a higher first cost and installation costs associated with condensing combustion equipment, i.e. condensate pump, furnace drain pan, and other modifications.

Conclusion

AGA believes that it would be inconsistent with past legal decisions, petitioner positions, and impending analysis on the Commonwealth of Massachusetts situation and potential consumer impacts for DOE to grant the Waiver Petition and that it would be prudent to await the results of the RAP program and resulting DOE action of minimum efficiency standards for residential furnaces..

Respectively Submitted,

A handwritten signature in cursive script that reads "James A. Ranfone".

James A. Ranfone
AGA Managing Director