

**BEFORE THE
OFFICE OF ENERGY EFFICIENCY AND RENEWABLE ENERGY
UNITED STATES DEPARTMENT OF ENERGY
WASHINGTON, D.C.**

Docket Number EERE-2014-BT-STD-0031/ RIN NO. 1904-AD20

**COMMENTS OF
THE LACLEDE GROUP, INC.**

Submitted via email to: ResFurnaces2014STD0031@ee.doe.gov

October 14, 2015

Pursuant to the Notice of Data Availability (“NODA”) of the Department of Energy, Office of Energy Efficiency and Renewable Energy (“DOE” or “Department”) published on September 14, 2015, in the Federal Register at page 55038, The Laclede Group, Inc. submits the following comments:

I. Communications

Any communications regarding this submittal should be addressed to:

Mark Krebs
Energy Policies and Standards Specialist
The Laclede Group, Inc.
700 Market Street
St. Louis, MO 63101
Mark.Krebs@thelacledegroup.com
Telephone: (314) 342-0714

II. About the Laclede Group, Inc.

The Laclede Group, Inc. (“Laclede”) is a holding company that owns and operates Laclede Gas Company, the largest natural gas distribution company in the state of Missouri, and Alabama Gas Corporation, the largest natural gas distribution company in the state of Alabama. Laclede’s utility companies have been distributing gas in one form or another in their respective service areas for more than a century and a half. Today, they provide natural gas distribution service to more than 1.5 million residential, commercial and industrial customers in Missouri and Alabama. Together, Laclede and its utility companies comprise the fifth largest publicly traded gas-only utility company in the United States per number of customers served.

Laclede is a member of the American Gas Association (“AGA”) and generally supports its filed comments for this NODA. While Laclede is not a member of the American Public Gas Association (“APGA”), Laclede also generally supports the comments submitted by APGA for this NODA.

III. Comments

In the NODA, DOE has requested public comments on a “provisional analysis of the potential economic impacts and energy savings that could result from promulgating amended energy conservation standards for residential non-weatherized gas furnaces (NWGFs) that include two product classes defined by input capacity.” The capacity cut-off between non-condensing and condensing furnaces is proposed to be somewhere between 45 and 65 thousand Btu/hour of input (36-52 thousand Btu/hour output at 80% AFUE efficiency). Furnaces below whatever cut-off limit may be established would remain non-condensing (with Category I venting systems) and furnaces above this limit would need to be condensing (with Category IV venting systems).

With the NODA, DOE is effectively seeking to modify the complete ban on non-condensing furnaces that DOE proposed its Notice of Proposed Rulemaking (“NOPR”) in this proceeding.¹ Laclede opposes the ban set forth in the NOPR because it is premised on a variety of provably false assumptions, including the unsupported assertions that condensing furnaces are a cost effective alternative for consumers in virtually all situations, that mandating their use to the exclusion of non-

¹ DOE’s NOPR proposing a ban on non-condensing furnaces was published in the March 12, 2015 edition of the Federal Register (*see* 80 Fed. Reg. 13120).

condensing furnaces would result in a more efficient use of energy resources, and that the ban would therefore have a positive impact on the environment. Laclede pointed out that DOE was only able to arrive at these flawed conclusions by engaging in a non-transparent analysis that relied on a proprietary “Crystal Ball” program and other analytical tools and analyses that were not available to the public or by interested stakeholders, let alone checked for accuracy and reasonableness. This opaque analytical process was further compromised by DOE’s use of questionable life-cycle cost techniques that produced results that were wildly inconsistent not only with those achieved based on real world analyses conducted by GTI, Laclede and others, but also with those produced by DOE less than three years ago as part of its Direct Final Rule on the identical subject.²

Unfortunately, DOE’s last minute effort in the NODA to establish a separate product class for non-condensing furnaces based on capacity ratings ranging from 45,000 to 65,000 Btu/hour suffers from many of the same transparency problems and analytical flaws underlying its proposal for a complete ban. Indeed, the proposal seems to be little more than a cosmetic effort to camouflage the imperfections of a deeply flawed rule by providing an alternative that eliminates some, but by no means all, of the more egregious impacts of an outright ban. The NODA does not and cannot provide the requisite cure, however, for three primary reasons:

² The end result of this opaque and deeply flawed analyses was a proposed ban that would cause consumers to make investments that are not cost effective for them because a consumer’s financial outlay cannot be recouped by realized cost savings, thereby violating the explicit requirements of Section 307(b) of the Energy Policy and Conservation Act (“ECPA”) which require that an investment’s cost be recovered over its useful life (ECPA. Pub. L. 102-486). Alternatively, it would cause consumers to migrate from natural gas to electric applications, an outcome that would not only increase life cycle costs for many consumers but also increase the consumption of energy sources that emit more carbon dioxide emissions -- a result that will further degrade rather than benefit the environment.

First, DOE’s legal authority to establish a separate product class for non-condensing based on size alone is likely barred by 42 U.S.C. 6295(o)(4) which provides that:

The Secretary *may not* prescribe an amended or new standard under this section if the Secretary finds (and publishes such finding) that interested persons have established by *a preponderance of the evidence* that the standard is likely to result in the unavailability in the United States in any covered product type (or class) of performance characteristics (including reliability), features, *sizes*, capacities, and volumes that are substantially the same as those generally available in the United States at the time of the Secretary’s finding. The failure of some types (or classes) to meet this criterion shall not affect the Secretary’s determination of whether to prescribe a standard for other types (or classes). (*emphasis supplied*)

This is particularly true since basing a separate product class on capacity input sizes as small as 45,000 to 65,000 Btu/hour would continue to cause millions of customers to either chose an furnace that is not cost effective over its useful life or migrate to electric furnaces or other applications that will increase overall energy usage and degrade rather enhance the environment, all in derogation of the legal requirements of the ECPA. A far more sustainable basis for establishing a separate product class for non-condensing furnaces would be to base it on venting characteristics as proposed by an AGA “white paper.”³ Unlike a separate product class based solely on size, such an approach would substantially mitigate, if not completely eliminate, the significant cost differences that make what DOE has currently proposed an uneconomic option that is simply not cost effective for too many consumers.

³ <http://www.regulations.gov/contentStreamer?documentId=EERE-2014-BT-STD-0031-0014&attachmentNumber=3&disposition=attachment&contentType=pdf>

Second, DOE has done nothing to correct the numerous analytical shortcomings identified and documented in stakeholder comments submitted in response to the NOPR. To the contrary, due to the same lack of transparency and analytical rigor that Laclede strongly believes warrant rescission of DOE's proposed ban on non-condensing furnaces, these discrepancies have been largely repeated in the NODA, as identified in the comments submitted by AGPA and AGA. Rather than reiterate those shortcomings, Laclede will simply reference its previous comments (posted on 7/15/2015) on the NOPR⁴ and observe that one flawed and opaque analysis cannot be cured by another.

Third, little or no credible evidence or analysis has been provided by either DOE or other stakeholders for that matter that would support the establishment of a separate product class based on size, let alone information that would satisfy the requirement that such a class be supported by "a preponderance of the evidence" as specified by 42 U.S.C. 6295(o)(4).⁵ In fact, if any stakeholder has satisfied this legal requirement, Laclede believes that it is AGA with its October 22, 2014 request to establish a separate product class based on the different venting characteristics of particular furnaces. AGA's request was supported by an extensive white paper that thoroughly explained why establishing a separate product class for non-condensing furnaces is a cost effective alternative for consumers that complies with the legal standards for establishing such a class.

⁴<http://www.regulations.gov/contentStreamer?documentId=EERE-2014-BT-STD-0031-0141&attachmentNumber=1&disposition=attachment&contentType=pdf>

⁵As shown in the attached Ex-parte Memo set forth in Appendix A to these comments, advocacy groups that met with DOE and proposed the kind of size limitations now being considered by DOE in its NODA offered no documentation or analysis of any kind to support the appropriateness of such a limitation.

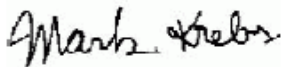
IV. Summary & Conclusions

While Laclede commends DOE for considering separate product classes, DOE has failed to undertake the task on an analytically sound, transparent and impartial basis. Consequently, Laclede does not endorse DOE's NODA. Laclede is also concerned that endorsing DOE's NODA proposal would set a dangerous precedent for illegitimate analyses of other appliances in the future.

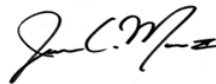
In closing, Laclede supports any and all minimum efficiency standards for appliances that legitimately serve its customers' best interests. DOE's proposed rule and NODA would not achieve that goal, but rather frustrate it. Rather than regulate minimum efficiencies for furnaces, DOE should simply continue to allow market forces to move efficiency forward in a cost effective manner as it has been doing with considerable success over the past several decades. For all of these reasons, Laclede respectfully urges DOE to:

1. Rescind its proposed ban on non-condensing furnaces.
2. Establish a separate product classification for furnaces, based on venting characteristics rather than size, as proposed by AGA in its October 22, 2104 letter and white paper.

Respectfully submitted,



Mark Krebs
Energy Policies and Standards Specialist



Jim Moore
Utility Market Analyst

Appendix A

July 31, 2015, [ex-parte meeting](#)

To: U.S. DOE Office of General Counsel

From: Elizabeth Noll, Natural Resources Defense Council

Date: August 17, 2015

Re: U.S. Department of Energy Notice of Proposed Rulemaking for Residential Non-Weatherized Gas Furnace Minimum Efficiency Standards Docket No. EERE-2014-BT-STD-0031-0054

This memo provides an overview of communications made to DOE staff on the subject of the notice of proposed rulemaking reference above. The communication occurred at a meeting held on July 31, 2015.

Meeting Attendees:

Representing U.S. DOE:

- Kathleen Hogan
- John Cymbalsky
- Dan Cohen
- Johanna Hariharan
- Keith Bradley

Representing Stakeholders:

- Andrew deLaski, ASAP
- Steve Nadel, ACEEE
- Tim Ballo, EarthJustice
- Elizabeth Noll, NRDC
- Ben Longstreth, NRDC
- Robin Roy (phone), NRDC
- Jeff Harris (phone), ASE

The Stakeholders discussed components of the public comments filed by the represented groups on July 10, 2015 regarding the notice of proposed rulemaking for residential non-weatherized gas furnaces, including the following points:

- The stakeholders shared their support for the proposed standard and the significant energy, consumer and environmental savings associated with the proposal. An updated energy efficiency standard for residential gas furnaces is urgently needed.
- While stakeholders support the proposal and believe the proposed rule meets statutory criteria and is well justified, the stakeholders offered some recommendations to further improve the final standard.

- Stakeholders recommended consideration for adopting a 95% AFUE condensing standard that covers the substantial majority of furnaces manufactured. Relative to 92% AFUE, 95% AFUE has much greater energy and environmental savings, as well as superior consumer impacts (including higher average and total consumer savings, fewer households that would be worse off, and reduced negative impacts for those households who are).
- Stakeholders recommended consideration for adopting an 80% AFUE standard for furnaces below a specified maximum capacity threshold based on the following considerations:
 - o Capacity threshold required should be established giving consideration to well- insulated average-size homes in a mild or warm climate, well-weatherized, moderate-size row homes, as well as multifamily housing.
 - o Capacity threshold is legally justified and there are examples where DOE has established capacity based standards for other products including water heaters.
 - o Capacity threshold can address many of the subset of households for which a condensing furnace is uneconomic, while still capturing the efficiency savings of condensing furnaces in the large majority of households and encouraging utility efficiency programs to improve insulation and weatherization in new and existing homes.