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DEPARTMENT OF ENERGY

10 CFR Parts 430 and 431

RIN 1904-AE39

Energy Conservation Program for Appliance Standards: Energy Conservation Standards for Residential Furnaces and Commercial Water Heaters; Withdrawal

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Proposed rulemakings; withdrawal.

SUMMARY: In response to a petition for rulemaking submitted on October 18, 2018 (Gas Industry Petition), the Department of Energy (DOE or the Department) has published elsewhere in this issue of the *Federal Register* a final interpretive rule determining that, in the context of residential furnaces, commercial water heaters, and similarly-situated products/equipment, use of non-condensing technology (and associated venting) constitute a performance-related “feature” under the Energy Policy and Conservation Act (EPCA) that cannot be eliminated through adoption of an energy conservation standard. Relatedly, DOE published in the *Federal Register* a notice of proposed rulemaking for residential furnaces on March 12, 2015, a notice of proposed rulemaking for commercial water heaters on May 31, 2016, and a supplemental notice of proposed rulemaking for residential furnaces on September 23, 2016. In light of the final interpretive rule, DOE hereby withdraws these proposed rules.

DATES: The proposed rule for residential furnaces that appeared in the *Federal Register* on March 12, 2015 at 80 FR 13120, the proposed rule for commercial water heaters that appeared in

the *Federal Register* on May 31, 2016 at 81 FR 34440, and the supplemental proposed rule for residential furnaces that appeared in the *Federal Register* on September 23, 2016 at 81 FR 65720 are withdrawn as of [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

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SUPPLEMENTARY INFORMATION: On March 12, 2015, DOE published in the *Federal Register* a rule proposing amended energy conservation standards for residential non-weatherized gas furnaces and mobile home furnaces, in furtherance of its statutory obligation to determine whether more-stringent, amended standards would be technologically feasible and economically justified, and would save a significant amount of energy (80 FR 13120), and the Department subsequently published in the *Federal Register* a supplemental proposed rule for this rulemaking on September 23, 2016 (81 FR 65720). Similarly, on May 31, 2016, DOE published in the *Federal Register* a rule proposing amended energy conservation standards for commercial water heaters (81 FR 34440).

However, in response to a petition for rulemaking submitted on October 18, 2018 (Gas Industry Petition), DOE published that petition in the *Federal Register* on November 1, 2018, for public review and input (83 FR 54883). The Gas Industry Petition was submitted by the American Public Gas Association (APGA), Spire, Inc., the Natural Gas Supply Association (NGSA), the American Gas Association (AGA), and the National Propane Gas Association

(NPGA), asking DOE to: (1) issue an interpretive rule stating that DOE's proposed energy conservation standards for residential furnaces and commercial water heaters would result in the unavailability of "performance characteristics" within the meaning of EPCA, as amended (*i.e.*, by setting standards which can only be met by condensing combustion technology products/equipment and thereby precluding the distribution in commerce of non-condensing combustion technology products/equipment) and (2) withdraw the proposed energy conservation standards for residential furnaces and commercial water heaters based upon such findings. To address the Gas Industry Petition, DOE subsequently published in the *Federal Register* a proposed interpretive rule on July 11, 2019 (84 FR 33011), and a supplemental notice of proposed interpretive rule on September 24, 2020 (85 FR 60090), both of which offered opportunity for public comment.

After careful review, DOE ultimately decided to adopt a final interpretive rule determining that, in the context of residential furnaces, commercial water heaters, and similarly-situated products/equipment, use of non-condensing technology (and associated venting) constitute a performance-related "feature" under EPCA that cannot be eliminated through adoption of an energy conservation standard. That final interpretive rule is published elsewhere in this issue of the *Federal Register*. In light of its changed interpretation, DOE withdraws the aforementioned proposed rules for further rulemaking consistent with its revised interpretation.

Signing Authority

This document of the Department of Energy was signed on January 12, 2021, by Daniel R Simmons, Assistant Secretary for Energy Efficiency and Renewable Energy, 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, D.C. on January 12, 2021.

Treena V. Garrett
Federal Register Liaison Officer,
U.S. Department of Energy

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