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Energy 350
1033 SE Main St., Suite 1
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Mr. Mike Pfeiffer, P.E.
Senior Vice President of Technical Services
International Code Council

Re: Response to Appeal of Staff Action: International Code Council (ICC) Appeals Board

Dear Mr. Pfeiffer,

Thank you for the opportunity to respond to the appeal submitted by the American Gas Association (AGA) and American Public Gas Association (APGA) on proposal RE107-19 as part of the International Energy Conservation Code (IECC) 2021 edition.

This proposal was brought forward on behalf of the Northwest Energy Codes Group, a collaboration of entities in the Pacific Northwest focused on increasing the adoption of efficient products and practices through utility demand side management programs, training, energy codes, and standards.

We continue to support proposal RE107-19 which seeks to place a prohibition on standing pilot lights for select gas-fired appliances. There are currently state codes and regulations banning standing pilot lights on select gas-fired appliances in Washington, California, and British Columbia. Standing pilot lights are no longer necessary with many gas-fired appliances and space heating systems offering market accepted alternative methods.

We have outlined the two primary areas of contention the AGA/APGA appeals as such:

1. This proposal results in a de facto ban on standing pilot ignition of gas-fired appliances which is in conflict with federal law that preempts promulgation of requirements that conflict with federal minimum efficiency standards for products “covered” by the Energy Policy and Conservation Act of 1975 (Pub.L. 94–163, 89 Stat. 871) and its amendments (collectively, “EPCA”).
2. The proposal would seek to ban continuous pilot lights on appliances such as water heaters which employ essential life safety systems under the ANSI-recognized Z21.10.1 national standard.

To address the federal preemption appeal, the proposal does not impose a de-facto ban on standing pilot light ignition systems for gas-fired appliances as AGA/APGA incorrectly states. The proposal places a ban on standing pilot lights only for the appliances listed in the code proposal and which, with the exception of fireplaces, is language that has been in place in other state energy codes for several code cycles. The proposal reiterates the same prohibition on standing pilot lights for appliances already required by federal standards and therefore the IECC would not be in conflict with them.

With regards to fireplaces, which are a new item specified in this code language and also not preempted by federal standards, the DOE defines them as follows:

DOE has proposed that “hearth product” means a gas-fired appliance that simulates a solid-fueled fireplace or presents a flame pattern (for aesthetics or other purpose) and that may provide space heating directly to the space in which it is installed. [78 FR 79638](#)

Although DOE did attempt to regulate hearth products in the past, the rulemaking was unsuccessful with no action taken to establish a federal standard since the public comment period ended in 2015. Furthermore, AGA/APGA submitted joint comments on DOE’s proposed rulemaking for hearth products May 11, 2015 objecting to the proposed federal regulation. As such, no federal efficiency standard exists for fireplaces currently.

As there are no established federal standards or test procedures for hearth products, prohibiting continuous pilot lights in the IECC would not be in conflict with any federal standard and is not in violation of federal law.

With respect to the proposal seeking a ban on safety features for appliances such as water heaters, the AGA/APGA appeal incorrectly states that water heaters are included under the provisions of this proposal. That is incorrect. Water heaters are not listed as a piece of equipment in the proposal language for which the pilot light prohibition would affect. Water heaters were specifically left out of the proposal due to existing standards that would cause the IECC to conflict with federal preemption law. **No prohibition has been specified for water heater pilot lights as part of this proposal and it is therefore not in conflict with federal preemption law.**

Thank you for your consideration of this response and we look forward to the final ICC ruling on this proposal.

Sincerely,



Nicholas O’Neil, P.E. (on behalf of the NW Energy Codes Group)

Director of Research & Evaluation

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