



July 26, 2004

Mr. Glen Shankle
Acting Executive Director
Texas Commission on Environmental Quality
P.O. Box 13087,
Austin, TX 78711-3087

Petitioner: American Gas Association
400 N. Capitol St. N.W.
Washington, DC 20001

The American Gas Association represents 192 local energy utility companies that deliver natural gas to more than 53 million homes, businesses and industries throughout Texas and the United States. Natural gas meets one-fourth of the United States' energy needs. For more information, go to www.aga.org.

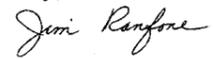
The Rule: Chapter 117 – Control of Air Pollution from Nitrogen Compounds
SUBCHAPTER D: Small Combustion Sources, Division 1

- (A) **Explanation of the proposed rule:** The rule establishes minimum nitrogen oxides (NOx) emissions from a number of natural gas fired products including natural gas-fired water heaters.
- (B) **The text of the proposed rule indicate the words to be deleted from the text of the current rule:**
Provided in Attachment 1
- (C) **The statement of the statutory or other authority under which the proposed rule is to be promulgated:** Texas Health and Safety Code, TCAA, 384.011, concerning General Powers and Duties, which provides the commission with the authority to establish the level of quality to be maintained in the state's air and the authority to control the quality of the state's air; 382.017, concerning Rules, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and 382.012, concerning State Air Control Plan, which requires the commission to develop plans for protection of the state's air, such as the SIP.
- (D) **The allegation of injury or inequity that could result from the failure to adopt the proposed rule.**
The 10 ng/j NOx regulation, as it applies to natural gas water heaters, needs to be rescinded based on information that there are no residential, storage type gas water heaters available that can meet the requirement and no indication that there will be any by the effective date. In addition, the non-availability of residential gas water heaters would cause fuel switching to electric water heaters that would result in an increase in emissions within the state because of the increase in electrical demand. A detailed final draft analysis (Attachment 2) is provided illustrating the negative unintended consequences that will result if the rule is not rescinded including an increase in overall emissions and the increase in first cost and installed cost to Texas consumers.

July 26, 2004
Page 2

Summary: In the absence of any thorough analysis by the TCEQ, of the technical feasibility and economic justification of the requirements for residential natural gas water heaters, the rule should be rescinded

Sincerely,



James Ranfone
Managing Director, Building Codes & Standards

Attachments