

BRETT A. SHUMATE
Assistant Attorney General

STANLEY E. WOODWARD, JR.
Associate Attorney General

YAAKOV M. ROTH
Principal Deputy Assistant Attorney
General

ADAM R.F. GUSTAFSON
Principal Deputy Assistant Attorney General

CHARLES E.T. ROBERTS
(PA Bar No. 326539)
Counsel to the Assistant Attorney
General
U.S. Department of Justice
Civil Division
950 Pennsylvania Ave., NW
Washington, DC 20530
(202) 305-1141
Charles.Roberts2@usdoj.gov

JOHN K. ADAMS
Senior Counsel

DAVIS FORSYTHE
Senior Counsel
U.S. Department of Justice
Environment and Natural Resources Division

Counsel for the United States

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW JERSEY**

THE UNITED STATES OF AMERICA,

No. _____

Plaintiff,

v.

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

TOWNSHIP OF MORRIS, NEW
JERSEY; TOWNSHIP OF MORRIS
COMMITTEE; DONNA J. GUARIGLIA,
in her official capacity as Mayor of Morris
Township; JOSEPH VUICH, in his official
capacity as Consulting Township Engineer;
RON AUTH, in his official capacity as
Construction Code Official,

Defendants.

1 Plaintiff, the United States of America, by and through its undersigned counsel, brings
2 this civil action for declaratory and injunctive relief, and alleges as follows:

3 **PRELIMINARY STATEMENT**

- 4 1. From the day President Donald J. Trump took office, his Administration has prioritized
5 cutting energy costs for all Americans, restoring consumer freedom, and unleashing
6 American energy dominance. *Unleashing American Energy*, 90 Fed. Reg. 8,353 (Jan. 20,
7 2025) (Executive Order 14154). Ensuring that all Americans have reliable access to
8 affordable energy not only makes good economic sense, it also strengthens national
9 security.
- 10 2. Standing in the way of that progress, certain states and localities have enacted “energy
11 policies that threaten American energy dominance and our economic and national
12 security.” *Protecting American Energy from State Overreach*, 90 Fed. Reg. 15,513 (Apr.
13 8, 2025) (Executive Order 14260). These radical measures “weaken our national security
14 and devastate Americans by driving up energy costs for families coast-to-coast.” *Id.*
15 Instead, “Americans must be permitted to heat their homes, fuel their cars, and have peace
16 of mind—free from policies that make energy more expensive and inevitably degrade
17 quality of life.” *Id.* To that end, the President directed the Attorney General “to take all
18 appropriate action to stop” measures she “determines to be illegal.” *Id.*
- 19 3. The Township of Morris, New Jersey (the “Township”) has such a measure on its books:
20 Ordinance 08-22 (the “Ordinance”).¹ In 2022, the Township banned natural gas, propane
21 gas, and fuel oil infrastructure and appliances in new apartment complex or apartment
22 style housing comprised of twelve (12) or more dwelling units. In pursuit of
23 “electrification,” this ban denies consumers reliable, resilient, and affordable energy, as
24 well as the use of commonplace gas appliances for cooking, heating, and other household
25

26 ¹ Attached as Exhibit A, available at [https://www.morristwp.com/DocumentCenter/View/9217/8-](https://www.morristwp.com/DocumentCenter/View/9217/8-22)
27 22, and codified at Chapter 194 of the Morris Township Code of Ordinances, available at
<https://ecode360.com/39686029>.

needs. But natural gas is often the lowest cost *and* most efficient energy source for everyday uses—outperforming electric on both expense and lifecycle emissions. *See* Dep’t of Energy, *Energy Conservation Program for Consumer Products: Representative Average Unit Costs of Energy*, 89 Fed. Reg. 83,672, 83,673 (Oct. 17, 2024).

4. The Township’s gas ban is not only bad policy, it is also unlawful. The Energy Policy and Conservation Act (“EPCA”) preempts state and local “regulation[s] concerning the energy efficiency” or “energy use” of any “covered product” subject to a federal “energy conservation standard.” 42 U.S.C. § 6297(c).

5. As the Ninth Circuit recently held, “completely prohibiting the installation of natural gas piping within newly constructed buildings” is “preempted by Congress” in EPCA. *California Rest. Ass’n v. City of Berkeley*, 89 F.4th 1094, 1098 (9th Cir. 2024), *amended on denial of reh’g en banc* (citing 42 U.S.C. § 6297(c)). As that precedent demonstrates, Morris Township’s gas ban is invalid.

6. The United States brings this declaratory and injunctive action to stop the Township and its officials from enforcing the preempted Ordinance that drives up American energy costs and reduces consumer freedom.

PARTIES

7. Plaintiff, the United States of America, enforces federal laws such as EPCA through its Executive agencies, including the Department of Energy.

8. Defendant Township of Morris, New Jersey, is a municipal corporation organized and existing under and by virtue of the laws of the State of New Jersey. The Township, through the Township of Morris Committee, adopted the Ordinance and has authority to enforce it.

9. Defendant Township of Morris Committee (the “Township Committee”) is the governing body of the Township and adopted the Ordinance.

10. Defendant Donna J. Guariglia is the Mayor of the Township and responsible for

1 enforcement of the Ordinance. She is sued in her official capacity.

2 11. Defendant Joseph Vuich is the Consulting Township Engineer of the Township and
3 responsible for enforcement of the Ordinance. He is sued in his official capacity.

4 12. Defendant Ron Auth is the Construction Code Official of the Township and responsible
5 for enforcement of the Ordinance. He is sued in his official capacity.

6 **JURISDICTION AND VENUE**

7 13. The Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345.

8 14. The Township's Ordinance conflicts with and is preempted by federal law, and does not
9 satisfy the requirements of any exception to preemption.

10 15. There is no set of circumstances under which the Ordinance would be valid under federal
11 law. The Ordinance's limited exceptions do not save it from preemption.

12 16. The United States has standing to vindicate its sovereign interests. *See, e.g., Arizona v.*
13 *United States*, 567 U.S. 387 (2012); *United States v. Pittsburgh*, 757 F.2d 43, 45 (3d Cir.
14 1985). The Ordinance threatens and harms the United States' sovereign interest in the
15 supremacy and enforcement of federal law, specifically EPCA.

16 17. The Ordinance also injures the United States by undermining and conflicting with EPCA's
17 statutory scheme and purposes described below. For example, the measure (i) prohibits
18 the use of products that the United States Department of Energy regulates and that may
19 be distributed in commerce if in compliance with those federal regulations, thereby
20 disrupting the agency's implementation of the federal statutory scheme, (ii) creates a
21 patchwork of inconsistent regulation in an area where Congress imposed a uniform,
22 national energy conservation standards with exceptions permitted only in narrow
23 circumstances and (iii) harms the United States' interests in protecting Americans' access
24 to reliable, resilient, and affordable energy and the well-being of national energy markets.

25 18. A favorable ruling would redress the United States' harms.

26 19. The Court has the authority to provide the relief requested under the Supremacy Clause,
27

U.S. Const. art. VI, cl. 2, as well as 28 U.S.C. §§ 1651, 2201, and 2202, and its inherent equitable powers.

20. Venue is proper in this District under 28 U.S.C. § 1391 because the Township is located within this District and the acts and events giving rise to the claims occurred at least in part in this District.

MORRIS TOWNSHIP’S GAS BAN

21. In May 2022, the Township Committee adopted Ordinance 08-22 “An Ordinance Requiring that All New Residential and Commercial Developments of Apartments or Apartment Style Housing of Twelve Units or Greater to Be All-Electric Buildings.” Township of Morris, Minutes of May 18, 2022 Township Committee Regular Meeting (May 18, 2022).²

22. A true and correct copy of Ordinance 08-22, which took effect upon publication following the May 18, 2022 Township Committee meeting at which it was adopted, is attached as Exhibit A. *See supra* Note 1.

23. The Ordinance’s intent and effect are to ban natural gas, propane gas, and fuel oil appliances in covered buildings.

24. The Ordinance added a new Chapter 194 to the Morris Township Code of Ordinances, which states:

On or after September 1, 2022, the Township Engineer and/or Construction Official shall not issue a construction permit for a new apartment complex or apartment style housing comprised of 12 or more dwelling units unless the permit requires the building to be constructed as an all-electric building.

Ordinance, sec. 1, ¶ 2 (Morris Twp. Code of Ordinances § 194-2).

25. Under the Ordinance, “all-electric building[]” means “a building or project that uses a permanent supply of electricity as the sole source of energy to meet building energy needs.

² https://www.morristwp.com/AgendaCenter/ViewFile/Minutes/_05182022-1302

An all-electric building or project shall have no natural gas, propane, or oil heaters, boilers, piping systems, fixtures or infrastructures installed to meet building energy needs.” Ordinance, sec. 1, ¶ 1 (Morris Twp. Code of Ordinances § 194-1). And “building energy needs” means “all space conditioning, including heating and cooling, water heating, including pools and spas, cooking appliances and clothes washing and drying appliances.” *Id.*

26. The Ordinance includes an exception under which “the Township Engineer and/or Construction Official may issue a permit for a new mixed-fuel building upon a finding by the Planning Board that construction of an all-electric building is physically or technically infeasible. Financial considerations shall not be sufficient basis to determine physical or technical infeasibility.” Ordinance, sec. 1, ¶ 3 (Morris Twp. Code of Ordinances § 194-3). And the Ordinance specifies that “the applicant shall pay or agree in writing to pay any costs related to the connection of any gas main and/or transmission system to ensure that such costs are not subsidized by other service class rate payers” in relation to any issued exception. Ordinance, sec. 1, ¶ 4 (Morris Twp. Code of Ordinances § 194-3).

27. The Ordinance functions to ban all use of natural gas, propane gas, and fuel oil appliances in covered buildings.

28. The Ordinance is and may be enforced by the City, its departments, and employees, in particular the Township Engineer and Construction Official, under the supervision of the Township Committee and Mayor. *See* Ordinance, sec. 1, ¶ 3 (Morris Twp. Code of Ordinances § 194-3).

FEDERAL ENERGY POLICY AND CONSERVATION ACT

29. The Supremacy Clause of the United States Constitution mandates that “[t]his Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land . . . any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” U.S. Const. art. VI, cl. 2.

30. One such law of the United States, which must be given preemptive effect under the Supremacy Clause, is EPCA.

31. Congress passed EPCA to establish a “comprehensive energy policy” addressing “the serious economic and national security problems associated with our nation’s continued reliance on foreign energy resources” laid bare by the early 1970s oil crisis. *Air Conditioning & Refrigeration Inst. v. Energy Res. Conservation & Dev. Comm’n*, 410 F.3d 492, 498 (9th Cir. 2005).

32. In service of its goals to promote both domestic energy supply and energy conservation, Congress began regulating many appliances’ energy efficiency and energy use. *See id.*

33. Originally, EPCA permitted more substantial state and local involvement in appliance regulation. *Id.* at 499. But Congress narrowed that authority as it directed increasingly greater federal involvement. Amendments in the 1970s and 1980s eventually mandated federal standards for many appliances and authorized the Department of Energy to issue new or revised standards. *See id.* at 499–500.³

34. Products covered by EPCA now may only be “distribute[d] in commerce” if they conform with the applicable federal standard, which requires testing in accordance with standardized, detailed test procedures. 42 U.S.C. § 6302(a)(5); *see id.* §§ 6292, 6293, 6295, 6313, 6314; 10 C.F.R. Parts 429–31.

35. Pursuant to EPCA, there are several covered products fueled by natural gas, propane, or fuel oil for which energy conservation standards are in place. *See, e.g.*, 10 C.F.R. §§ 430.32(d) (residential water heaters), (e) (residential furnaces), (h) (residential clothes dryers), (i) (direct heating equipment), (j) (cooking tops and ovens), (k) (pool heaters), 431.77(a) (gas-fired commercial warm air furnaces), (b) (oil-fired commercial warm air

³ EPCA addresses consumer products and industrial equipment separately. *See* 42 U.S.C. §§ 6291–6309 (consumer); *id.* §§ 6311–6317 (industrial). The provisions are substantially similar, and nothing at issue turns on the specific type of product involved. For convenience, this Complaint cites the consumer product provisions. *Cf. Air Conditioning & Refrigeration Inst.*, 410 F.3d at 496 n.2 (taking a similar approach).

furnaces), 431.87 (commercial package boilers), 431.110 (commercial storage water heaters, instantaneous water heaters, and hot water supply boilers); *see also id.* §§ 430.2, 431.2 (defining “gas” to mean either natural gas or propane).

36. To give effect to federal standards, enable manufacturers to distribute in commerce products that conform with those standards, preserve product utility, improve energy efficiency and grid resilience, and conserve consumer choice, Congress also broadened EPCA’s preemption clause.

37. As amended, EPCA preempts not only state and local regulations that directly impose energy efficiency standards on a covered product, but more broadly any regulation “concerning the energy efficiency, energy use, or water use of” products subject to a federal standard. *Id.* § 6297(c).

38. EPCA defines “energy use” as “the quantity of energy directly consumed by a consumer product at point of use.” *Id.* § 6291(4). And it defines “energy efficiency” as “the ratio of the useful output of services from a consumer product to the energy use of such product, determined in accordance with test procedures under section 6293 of this title.” *Id.* § 6291(5).

39. EPCA provides limited exceptions to this general rule of preemption. One exception is that states and localities may ask the Department of Energy to waive this preemption, but Congress strictly cabined this waiver authority both procedurally and substantively, in service of the goals described *supra* ¶ 36. *See id.* § 6297(c)(2), (d). For example, EPCA prohibits waiving preemption of state and local measures that fail to establish “by a preponderance of the evidence” that the measure is “needed to meet unusual and compelling State or local energy or water interests,” which must be “substantially different in nature or magnitude than those prevailing in the United States generally.” *Id.* § 6297(d)(1)(B), (C)(1).

40. Congress also specified that “regulation[s] or other requirement[s] contained in a State or local building code for new construction concerning the energy efficiency or energy use

1 of [a] covered product” are preempted *unless* they satisfy all of seven enumerated
2 conditions. *Id.* § 6297(f)(3); *see id.* § 6297(c)(3). One of those conditions is that the “code
3 does not require that the covered product have an energy efficiency exceeding the
4 applicable energy conservation standard established in or prescribed under section 6295
5 of this title.” *Id.* § 6297(f)(3)(B).

6 41. Morris Township’s Ordinance “concern[s] the . . . energy use” of products subject to a
7 federal standard. *Id.* § 6297(c). As the Ninth Circuit explained, “a building code that
8 prohibits consumers from using natural gas-powered appliances in newly constructed
9 buildings necessarily regulates the ‘quantity of energy directly consumed by [the
10 appliances] at point of use’” and is therefore preempted by EPCA. *California Rest. Ass’n*,
11 89 F. 4th at 1102 (alteration in original); *see id.* (“EPCA preempts [the municipality’s]
12 regulation here because it prohibits the installation of necessary natural gas infrastructure
13 on premises where covered appliances are used.”); *id.* at 1103 (“[A] building code that
14 bans the installation of piping that transports natural gas from a utility’s meter on the
15 premises to products that operate on such gas ‘concerns’ the energy use of those products
16 as much as a direct ban on the products themselves.”).

17 42. The Township has not sought a preemption waiver from the Department of Energy for
18 Ordinance 08-22.

19 43. Nor does the Ordinance qualify for any other exception to preemption by EPCA, including
20 the one for certain qualifying building codes under 42 U.S.C. § 6297(f)(3).

21 44. EPCA’s broad preemption provision therefore bars Morris Township’s Ordinance because
22 it prohibits products that are subject to a federal energy conservation standard from using
23 energy.

24 45. The Ordinance therefore is invalid under the Supremacy Clause.
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26
27

CLAIM FOR RELIEF

COUNT ONE – VIOLATION OF THE SUPREMACY CLAUSE

(PREEMPTION BY THE ENERGY POLICY AND CONSERVATION ACT)

46. Plaintiff hereby re-alleges the preceding paragraphs of the Complaint as if fully stated herein.

47. Morris Township's Ordinance is preempted in its entirety by EPCA.

48. There is no set of circumstances under which the Ordinance would be valid.

49. The Ordinance concerns the energy efficiency and energy use of all natural gas, propane gas, and fuel oil appliances in covered buildings, including appliances covered by EPCA.

50. The Ordinance does not fall within EPCA's or any other exceptions to preemption.

51. The Federal Government is harmed and will be harmed by continued enforcement of the Ordinance.

52. Accordingly, Morris Township's Ordinance is and should be declared invalid under the Supremacy Clause and its enforcement should be permanently enjoined.

PRAYER FOR RELIEF

WHEREFORE, the United States respectfully requests the following relief:

- a. That this Court enter a judgment declaring that Morris Township's Ordinance is preempted by federal law and does not satisfy any exception to such preemption, and is accordingly void and unenforceable;
- b. That this Court enter a judgment permanently enjoining Defendants from enforcing or attempting to enforce Morris Township's Ordinance because it is preempted by federal law and does not satisfy any exception to such preemption, and is accordingly void and unenforceable;
- c. That this Court award the United States its costs and fees in this action; and
- d. That this Court award any other relief it deems just and proper.

1 DATED: March 31, 2026

Respectfully submitted,

2 BRETT A. SHUMATE
3 Assistant Attorney General

STANLEY E. WOODWARD, JR.
Associate Attorney General

4 YAAKOV M. ROTH
5 Principal Deputy Assistant Attorney
General

ADAM R.F. GUSTAFSON
Principal Deputy Assistant Attorney General

6 /s/ Charles E.T. Roberts
7 CHARLES E.T. ROBERTS
8 (PA Bar No. 326539)
9 Counsel to the Assistant Attorney
General
10 U.S. Department of Justice
Civil Division
11 950 Pennsylvania Ave., NW
Washington, DC 20530
12 (202) 305-1141
Charles.Roberts2@usdoj.gov

JOHN K. ADAMS
Senior Counsel

DAVIS FORSYTHE
Senior Counsel
U.S. Department of Justice
Environment and Natural Resources Division

13 *Counsel for the United States*

14
15 **LOCAL CIVIL RULE 101.1(f) DESIGNATION**

16 The United States designates the United States Attorney's Office to receive notices and
17 papers at the following address: Civil Chief, U.S. Attorney's Office 970 Broad Street, 8th Floor,
18 Newark, NJ 07102.

Exhibit A

**TOWNSHIP OF MORRIS
MORRIS COUNTY – NEW JERSEY
ORDINANCE NO. 08-22**

AN ORDINANCE REQUIRING THAT ALL NEW RESIDENTIAL AND COMMERCIAL DEVELOPMENTS OF APARTMENTS OR APARTMENT STYLE HOUSING OF TWELVE UNITS OR GREATER TO BE ALL-ELECTRIC BUILDINGS

WHEREAS, the Township Committee (the “Committee”) of the Township of Morris (the “Township”) desires to amend the language of the Code of the Township to require that all new apartment complex or apartment style housing of twelve units or greater be all electric building, and

WHEREAS, gas appliances emit several pollutants including carbon monoxide, nitrogen oxide among other which have been linked to several adverse health effects, particularly in children; and

WHEREAS, the Committee wishes to encourage and facilitate the construction of all-electric buildings which are designed and built to reduce overall energy demand and safer to avoid the risk of carbon monoxide poisoning among other adverse health effects; and

WHEREAS, in light of the serious threats posed by climate change, it is necessary and appropriate to adopt enhanced energy conservation construction requirements; and

WHEREAS, the Committee hereby finds and declares that it is in the best interest of the Township and its residents to amend the language of the Code of the Township of Morris and adopt the amendments to same.

NOW BE IT HEREBY ORDAINED by the Township Committee of the Township of Morris they being the governing body thereof as follows:

SECTION ONE:

1. Definitions:

All-electric Buildings shall mean a building or project that uses a permanent supply of electricity as the sole source of energy to meet building energy needs. An all-electric building or project shall have no natural gas, propane, or oil heaters, boilers, piping systems, fixtures or infrastructures installed to meet building energy needs.

Building Energy Needs shall mean all space conditioning including heating and cooling, water heating including pools and spas, cooking appliances and clothes washing and drying appliances.

2. On or after September 1, 2022, the Township Engineer and/or Construction Official shall not issue a construction permit for a new apartment complex or apartment style housing comprised of twelve (12) or more dwelling units unless the permit requires the building to be constructed as an All-electric Building
3. Notwithstanding the provisions of paragraph 2, the Township Engineer and/or Construction Official may issue a permit for a new mixed-fuel building upon a finding by the Planning Board that construction of an all-electric building is physically or technically infeasible. Financial considerations shall not be sufficient basis to determine physical or technical infeasibility.

4. If a modification is issued under paragraph 2 of this subdivision, the applicant shall pay or agree in writing to pay any costs related to the connection of any gas main and/or transmission system to ensure that such costs are not subsidized by other service class rate payers. Those costs include but are not limited to the material and installation of the pipe, conduit, duct, or other facilities to be installed.

SECTION TWO: If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this Ordinance shall not be affected thereby and shall remain in full force and effect.

SECTION THREE: All ordinances or parts of ordinances or resolutions of the Township which are inconsistent or in opposition to the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION FOUR: This Ordinance shall take effect upon final passage and publication thereof, as provided for by law.

Township of Morris

Mark J. Gyorfy, Mayor

ATTEST:

Danielle M. Lewis, Township Clerk

INTRODUCTION: 04-20-2022

ADOPTION: