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September 14, 2018

The Honorable John Barrasso
Chair
Committee on Environment and Public Works
U.S. Senate

The Honorable Thomas Carper
Ranking Member
Committee on Environment and Public Works
U.S. Senate

The Honorable Shelley Moore Capito
Chair
Committee on Environment and Public Works
Subcommittee on Clean Air and Nuclear Safety
U.S. Senate

The Honorable Sheldon Whitehouse
Ranking Member
Committee on Environment and Public Works
Subcommittee on Clean Air and Nuclear Safety
U.S. Senate

Dear Chairman Barrasso, Ranking Member Carper, Chairwoman Capito, and Ranking Member Whitehouse:

The Hearth, Patio & Barbecue Association (HPBA) strongly supports S. 1857, legislation introduced by Senator Shelley Moore Capito, which would extend the effective date of Step 2 of an EPA emissions rule for new residential wood heaters by three years, from May 15, 2020 to May 15, 2023. The rule, referred to as the New Source Performance Standards (NSPS) for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces, was finalized in March 2015 with Step 1 of the rule coming into effect May 15, 2015. This was the first revision since 1988 and was greatly needed given the significant improvements in today's wood heater technologies. However, the rule essentially established two rules in one, with Step 2 of the rule set to come into effect May 15, 2020. Extension of the effective date is desperately needed in order to provide manufacturers enough time to complete R&D, testing, and purchase order fulfillment for retailers.

Members of our trade association include manufacturers, retailers, distributors, and servicers of wood and pellet stoves and inserts, hydronic heaters, and wood furnaces, in addition to other sectors of the hearth, patio, and barbecue industries. HPBA and its members have been long-time champions of woodburning product innovation. Biomass-fueled heaters are important renewable home heating options and vital for U.S. households looking to reduce home heating costs while also being environmentally conscious. HPBA takes every opportunity to ensure the general public has a wide variety of woodburning appliances available.

To be clear, HPBA and the hearth industry strongly support federal standards. We need these standards to maintain a level playing field across the U.S. and ensure stability in the market for both industry and consumers. This industry simply needs more time to come into compliance with the Step 2 standards and to resolve key issues that undermine the effectiveness of the NSPS program for new residential wood heaters.

For woodstove manufacturers in particular, a compliance date extension gives them time to make the transition to the not-yet-finished cordwood test method (a test method using fuel more similar to what homeowners burn and, therefore, is more representative of actual emissions). This in turn helps the

environment because stoves tested to this new method will be more likely to achieve expected emissions reductions in consumers' homes.

More time also gives manufacturers the ability to continue fulfilling purchase orders on Step 1 products, which we must keep in mind are far cleaner than conventional woodstoves. Sales revenues from Step 1 products go towards funding R&D for stoves to meet Step 2. They are also necessary to help manufacturers, the vast majority of which are small businesses, to recoup their investments on Step 1 products. In short, without this revenue stream, and for small manufacturers who currently have only one (or in some cases, zero) Step 2 products to offer, the additional time is critical.

For retailers, they would have more time and products to continue selling until manufacturers near completion of R&D and testing of products for Step 2. Finally, additional compliance time helps keep prices down, as manufacturers can better spread out R&D costs. This in turn helps consumers and communities replace existing, older stoves. Consumers will have more product choices and be able to afford new, more efficient EPA-certified products to replace older, higher-polluting appliances, which are a much larger source of emissions than Step 1-certified appliances.

Relatively few wood heaters meet the Step 2 standards today and even those that might be compliant may not be certified in time.

If we compare the number of Step 1 certificates to the number of Step 2 certificates, as of July 2018, of the 571 currently-certified models of wood and pellet stoves, only 91 models are certified to meet the Step 2 (2020) standards.¹ It's even worse for hydronic heaters and forced-air furnaces: only 11 out of 113 hydronic heaters and one out of 19 forced-air furnaces are Step 2-certified.^{2,3}

With R&D and test lab costs sometimes in the hundreds of thousands of dollars range, manufacturers are struggling to both achieve the standards and spread out costs of this process in the timeframe set by EPA. For this industry, the only way to pay for R&D and testing is through revenue from product sales. With the 2020 deadlines looming, Step 1 sales are suffering significantly. Without those sales, manufacturers are unable to continue working towards Step 2 certification. Many manufacturers (especially for hydronic heaters and forced-air furnaces) are facing the real prospect that they will have nothing to offer for sale in May 2020.

In addition to R&D costs, manufacturers must cover the costs of lab testing. Before scheduling time in one of only five accredited test labs in North America, a manufacturer must be sure that their product will pass the test. It is a waste of time and money to test a product before being certain that it will indeed pass. With only five EPA-approved test labs, the industry faces a logjam getting products tested by EPA-approved labs. As the deadline gets closer, hundreds of appliances will need EPA testing and certification in a very short timeframe. There is not enough capacity to get through the process in time. A letter from OMNI-Test Laboratories (*attached*), arguably the largest EPA-accredited test lab for wood heaters in the U.S., attests to the upcoming test lab logjam. Once a valid test by an approved lab is complete and a manufacturer receives a certificate of conformity, EPA must review the certification application, which can take more than 60 days if there are questions. The surge in products needing

¹ EPA. (July 2018). *List of EPA Certified Wood Stoves*. Retrieved from: <https://www.epa.gov/compliance/list-epa-certified-wood-stoves>

² EPA. (June 2018). *List of EPA Certified Hydronic Heaters*. Retrieved from: <https://www.epa.gov/compliance/list-epa-certified-hydronic-heaters>

³ EPA. (June 2018). *List of EPA Certified Forced-Air Furnaces*. Retrieved from: <https://www.epa.gov/compliance/list-epa-certified-forced-air-furnaces>

testing will further slowdown the process to final EPA certification. As a result, not all compliant products will be available on the effective date of Step 2, May 15, 2020.

Product availability and affordability will suffer without an extension.

Every affected wood heater sold today is EPA-certified. Extension of the Step 2 effective date does not change that and does not “rollback” any applicable standards. Rollback implies repealing, dismantling, or otherwise diminishing the effect of a law or regulation. S. 1857 is not a rollback. All it does it provide more time for an industry comprised of small businesses to come into compliance with regulation. Typically, EPA looks into whether to revise an emission rule every eight years. There are only five years between Step 1 (May 2015) and Step 2 (May 2020). In reality, due to the nature of the hearth industry business cycle, there is even less time.

The hearth industry is a seasonal business. Retailers submit purchase orders to manufacturers for the next heating season months in advance. Big box stores (e.g., Home Depot, Lowes, Menards, Tractor Supply) purchase even further in advance. HPBA has heard from several members that these big box stores told them as early as November 2017 that they would not be purchasing any products that did not meet Step 2. Many smaller retailers are now faced with this dilemma: buy Step 1-certified products, expecting a cold winter, or avoid the risk of being stranded with unsellable Step 1 inventory in 2020 and only buy Step 2-certified products. Some retailers who would like to buy Step 2 products are unable to because they still have large supplies of Step 1 products that they need to sell in order to be able to afford their order for Step 2 products (and to have space in their stores for a new range of products). This industry could be decimated without some kind of relief.

Without an additional three years to comply with Step 2 of the NSPS, there will be many fewer models available to consumers looking to upgrade from an existing stove (including conventional stoves that are not EPA-certified at any level) or simply interested in lowering their home heating costs. To be clear, a three-year extension is far more important than product sell-through relief (in this context, the ability to sell previously manufactured Step 1 products for a period of time after the Step 2 standards become applicable). Sell-through relief would not allow manufacturers to continue making Step 1 certified products, and isn't much of a help for manufacturers, especially very small manufacturers who may have severely limited Step 2 products to sell in 2020.

Consumers will be faced with higher prices and less variety in products. This is not good for air quality. Many families that heat with wood do so because it's affordable. These price-sensitive households will hang onto their older stoves (which may present safety and health hazards) rather than replace them with a more expensive EPA-certified product, or they may turn to heaters fueled by fossil fuels.

Data on Wood and Pellet Stoves and Inserts Shipments in the U.S.

Since this legislation (S.1857) only affects newly-manufactured and sold products, it is worthwhile to look at how many wood heaters (specifically wood and pellet stoves and inserts) are shipped across the U.S and where. HPBA's hearth shipments program keeps track of hearth product shipments across the U.S. and in Canada on an annual basis.

The shipment numbers from 2017 (Table 1) were collected from companies that account for about 75 percent of wood and pellet stoves and inserts sales. These are shipment numbers, not sales numbers, but are the best data source we can reference to show new products entering an individual state compared to nationwide shipments.

In 2017, 219,723 wood and pellet stoves and inserts were shipped across the U.S. It should be noted that these numbers don't reflect the home heating makeup for each state. Lower population states, by nature, will have fewer shipments since there are fewer customers in those states.

Table 1. Shipment Numbers (2017) of Wood and Pellet Stoves and Inserts in States of Members of the Senate Environment and Public Works Committee

State	% of National Shipments	State Shipments
Alabama	0.98%	2,150
Alaska	0.66%	1,450
Arkansas	0.84%	1,845
Delaware	1.17%	2,570
Illinois	1.92%	4,220
Iowa	0.79%	1,735
Kansas	0.31%	680
Maryland	2.25%	4,950
Massachusetts	1.42%	3,120
Mississippi	0.32%	710
Nebraska	0.60%	1,320
New Jersey	2.08%	4,570
New York	3.90%	8,570
Oklahoma	0.90%	1,980
Oregon	1.70%	3,735
Rhode Island	0.12%	265
South Dakota	0.31%	680
Vermont	0.23%	505
West Virginia	0.26%	575
Wyoming	0.24%	520

In states with the highest shipment numbers, it can be assumed that retailers or distributors are making product orders because they have sales orders to fulfill. States with lower shipment numbers can be attributed to (1) them being lower population states and/or (2) states with lower income populations who are unable to purchase newer EPA-certified stoves. The extension legislation will most impact them because an extension will help to lower the cost of appliances and enable manufacturers to certify more products.

Air quality would not be drastically impacted by S. 1857.

It has been asserted that any extension of the effective date of Step 2 will result in millions of pounds of additional PM being emitted into the air because we would be foregoing the emissions reductions that result from moving from Step 1 to Step 2. But those emissions reductions are grossly inflated because they are based on EPA shipment estimates that are exaggerated. Most of the EPA's estimated PM reductions from Step 1 to Step 2 come from implementation of the hydronic heater and furnace standards. Again, the particulate matter reduction estimates are based on EPA's estimated sales numbers for these products. EPA estimated that in 2017 alone, at least 30,000 furnaces would be

sold.⁴ HPBA surveyed its furnace manufacturer members, who make up 5 out of the seven furnace manufacturers with EPA-certified models. Combined, these manufacturers sold only 5,000 furnaces in 2017. Unless the other two small furnace manufacturers sold 25,000 furnaces in 2017, EPA's PM reduction estimates are grossly overestimated.

Further related to emissions calculations, some western states have used these estimated emissions reductions from Step 2 to model and project attainment or maintenance of their National Ambient Air Quality Standards (NAAQS), meet other clean air goals, and/or have included these estimates in their State Implementation Plans (SIPs). It appears that EPA has allowed at least two PM non-attainment areas, Puget Sound and Fairbanks, to use the 2 g/h **laboratory number** in their computer models. In the past, EPA has asked states to rely on 'real-world' performance numbers in their SIP models, which naturally would be higher numbers. There is no evidence that the lower laboratory numbers translate into lower real-world emissions.

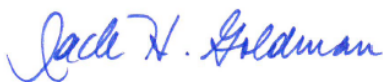
During the House Energy & Commerce Committee Subcommittee on the Environment hearing on H.R. 453 (House version of S. 1857), Congressman Scott Peters (D-CA-52) stated that "we don't want to have the perverse effect of not having better technology on the shelves because we couldn't achieve perfect."⁵ As policymakers, the goal should be to improve the quality of our air and improve health outcomes of populations with high use of wood-fueled products. Retailers must have affordable, clean-burning, and reliable products for consumers in order to reach this goal. If the current standards remain on track to come into effect as planned, this goal will become much, much more difficult (and costlier) to achieve.

Conclusion

An extension not only provides manufacturers with equal opportunity and necessary access to testing labs, but also would ensure stability in the retailer market, an important staple to healthy local economies. Additional time will allow for the continued development of more efficient and reliable woodburning hydronic heaters, wood and pellet stoves, and wood furnaces for American homes.

Thank you for considering these comments and your attention to S. 1857. We look forward to further discussion and hope to be a resource to you and your staff in the future.

Sincerely,



Jack Goldman
President & CEO
Hearth, Patio & Barbecue Association

Attachments: Letter from OMNI-Test Laboratories Regarding Test Lab Capacity

⁴ Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Health and Environmental Impacts Division. (2015). *Regulatory Impact Analysis (RIA) for Residential Wood Heaters NSPS Revision: Final Report* (Table 4-4. Estimated Annual Shipments by Category, 2008-2020, p. 72). Retrieved from <https://www.epa.gov/sites/production/files/2015-02/documents/20150204-residential-wood-heaters-ria.pdf>

⁵ *Big Relief for Small Business: Legislation Reducing Regulatory Burdens on Small Manufacturers and Other Job Creators: Hearing before the Subcommittee on the Environment of the Committee on Energy and Commerce, House of Representatives, 115th Cong. Preliminary Transcript*. 66 (September 13, 2017). <https://docs.house.gov/meetings/IF/IF18/20170913/106394/HHRG-115-IF18-Transcript-20170913.pdf>



November 14th, 2017

RE: Test Lab Capacity and Future Backlogs Impacting Wood Heaters

To Whomever It May Concern,

This letter serves as confirmation that OMNI-Test Laboratories (OMNI) has the capacity to accommodate the test methods prescribed by the Environmental Protection Agency (EPA) for its New Source Performance Standards (NSPS), which address appliances such as: “New Residential Wood Heaters,” “New Residential Hydronic Heaters,” and “Forced-Air Furnaces.” This letter also conveys the current (and upcoming) issues that our Lab, as well as many others, is(are) currently experiencing, as well as examples of ways in which certain aspects of the testing process can lead to significant delays that can have a significant impact on an appliance manufacturers’ ability to bring their product to North American markets.

OMNI has two standard-sized active testing stands for conducting emissions tests on Wood and Pellet Stoves, as well as a single (larger) testing stand for products with wider dimensions, such as Wood Furnaces and Hydronic Heaters. With a total of 3 active stands dedicated to EPA emissions testing, as well as a 4th stand that can be converted (if necessary) for active use, OMNI can be considered the largest accredited “Wood Heater Test Lab” approved by the EPA in North America.

OMNI representatives have estimated the average amount of time that it can take for one of our qualified Technicians to complete testing for each type of appliance. We’ve estimated that, on average, the physical testing portion of the Pellet Stove test method takes approximately one full day to complete. It was also estimated that the other “heater” test methods, such as those for Wood Stoves, Hydronic Heaters, and Forced-Air Furnaces, can take approximately one full work week to complete the physical testing (pending firebox sizes, additional options, etc., that could add to this time). These estimates are based on completion of the test method without any non-compliances or deficiencies.

In the past 12 months, OMNI has tested 14 Wood Heaters. Of those 14 units, there was a single appliance that did not pass the first run of the certification test series. The manufacturer was notified, and they requested the Wood Heater to be sent back to their facility to adjust the design and to continue their research and development (R&D) before sending it back for certification testing.

Considering the current state of the industry, we estimate that there will be hundreds of Wood Heaters that will need to be tested and certified before May 2020. This is taking into account both units that still need testing and expected release of new units in the coming years. As was experienced during the initial “Step 1” of the NSPS, which took effect in 2015, we anticipate a similar rush of applications from manufacturers to reserve testing space in the coming months. To prevent massive delays, the manufacturers must schedule projects months in advance. However, at times, some manufacturers decide to cancel a project that has already been planned and scheduled. This decision seems to arise when a manufacturer’s R&D work extends past their own completion timelines. OMNI strives to maintain a dynamic and flexible Test Schedule. Unfortunately, this type of issue can dramatically affect our ability to maintain that flexibility. Other scheduling limitations can occur when an appliance fails to meet specific parameters in the test methods, [at times] midway through a test series, resulting in runs that were once deemed “compliant” (from an individual standpoint), having to then be considered “invalid” when taking the entire series into



consideration. Factors that contribute to failures during testing can (but are not limited to) the following: Equipment malfunctions, stoves burning too hot during a cycle that is supposed to be cooler, etc.

Regardless of whether a manufacturer decides to cancel (or push out) their requested test stand time, or whether there is a test failure that would provide an opportunity for OMNI to begin on a separate manufacturer's appliance (reducing delay time), we cannot do so based on the EPA CFR's requirement that the Lab give a 30 days' notice before conducting tests. It is understood that the requirement is intended to give EPA representatives the opportunity to observe testing in-person if they so choose.

Although it is possible to increase a Lab's capacity to conduct EPA certification tests, should a "backlog" develop due to a sudden increase in demand, the lead-time and additional resources needed to implement this increase (for what may only be a limited time; essentially pushing Labs into a risky and unfruitful long-term investment) is significant. This does not include the long training time and resources needed to adequately qualify additional staff to address the upcoming logjam. We believe that these concerns are not unique to OMNI and are being experienced by the other EPA-approved Test Labs. We are proposing a cooperative effort between EPA and the Labs to help prevent another event resulting in significant delays for the manufacturers.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Alex Tiegs", is written over a horizontal line that spans across the signature area.

Alex Tiegs
President
OMNI-Test Laboratories, Inc.

AT/sb

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