



HPBA 2012 Manufacturer Membership Application

(For the period January 1, 2012 – December 31, 2012)

www.hpba.org

Company _____

Address (Please provide a street address) _____

City _____ State/Province _____ Zip/Postal Code _____ Country _____

Company Phone _____ Company Fax _____ Toll Free Phone/Fax _____ / _____

Company E-mail _____ Company Web Site _____

Primary Contact _____ Title _____

Phone _____ Fax _____ E-mail _____

Does your company brand, import, or manufacture any solid fuel related products? YES or NO (please circle your answer) If YES, please see the (NSPS) explanation on back of application.

COMPLETE THE FOLLOWING FOR 2012 HPBA MANUFACTURER MEMBERSHIP

| Dues Level | North American Sales | Dues (\$US) | Complimentary EXPO Badges |
|-----------------------------|----------------------|-------------|---------------------------|
| <input type="checkbox"/> M1 | \$0 to \$1 million | \$ 1,764 | 7 |
| <input type="checkbox"/> M2 | To \$2 million | \$ 2,775 | 11 |
| <input type="checkbox"/> M3 | To \$5 million | \$ 4,845 | 15 |
| <input type="checkbox"/> M4 | To \$10 million | \$ 7,098 | 19 |
| <input type="checkbox"/> M5 | To \$20 million | \$10,601 | 23 |
| <input type="checkbox"/> M6 | To \$50 million | \$14,762 | 31 |
| <input type="checkbox"/> M7 | To \$100 million | \$19,255 | 35 |
| <input type="checkbox"/> M8 | To \$200 million | \$28,105 | 39 |
| <input type="checkbox"/> M9 | Over \$200 million | \$39,176 | 45 |

Dues Policy – Computing Based on Reportable Sales:

2012 HPBA membership dues are based on 2011 calendar year sales (or projected year-end sales if actual sale figures are not yet available), by the entity designated as a member of the Association and all of its parents, subsidiaries and affiliated or related entities, of hearth and/or barbecue products, their components, accessories, and fuels, including but not limited to such products that are manufactured, branded, imported, sold or distributed through **any and all distribution paths**, calculated in \$US for all such transactions in North America. The Board of Directors shall have final authority to determine the proper dues level of all members, including whether entities will be considered related entities for purposes of this Dues Policy.

HPBA membership dues for manufacturers of products **other** than hearth or barbecue products as defined above shall pay membership dues representing the lowest manufacturer dues category.

2012 Member Dues Calculation

I certify that I am an officer of this company and that we have selected the appropriate membership category, have paid the appropriate level of annual dues for this company, and upon request will provide verification of sales and/or a notarized letter attesting to membership classification and dues category for this company.

Signature: _____ Title: _____ Date: _____

He@rth Online Training

Earn your CEUs by signing up for a discounted annual subscription to He@rth Online Training (online and OnDemand)! For information on course offerings, visit: www.hpbef.org.

___ I would like to purchase one user subscription* for \$249.

___ I would like to purchase a company subscription* (up to 5 users) for \$449.

*Main contact does not need to use the subscription. Once subscribed, the Hearth, Patio & Barbecue Education Foundation will contact you for detailed subscriber information.

Payment information on other side (Completion Required for Membership) ➡

Condition of eligibility for membership and agreement to abide by the bylaws, and membership policies of HPBA.

This company agrees to fully abide by all HPBA membership policies and practices including, but not limited to, all HPBA policies and practices regarding exhibiting at, participating in, and attending HPBA's annual Hearth, Patio & Barbecue EXPO, including the following:

- Events in the nature of an exhibition of products, other than in an EXPO exhibit booth, whether hosted by a vendor or by a retailing entity or by a distributor customer of hearth products, are prohibited at any time during the days of the EXPO education and exhibition.
- EXPO exhibitors may not have products on display at events attended by their dealers, other than in an EXPO exhibit booth, unless they obtain a variance from HPBA's EXPO Committee for a very narrow purpose.
- Manufacturers or other vendors who are not exhibiting at the EXPO also agree that they will not host events as set forth above at any time during the days of the EXPO education and exhibition.
- All manufacturers with solid fuel and/or gas related products and accessories are required to participate in the HPBA Special Projects funding assessment as a condition of membership. (*Enclosed HPBA Special Projects Addendum*)

As a result of paying annual membership dues to Hearth, Patio & Barbecue Association (HPBA) and/or any association affiliated with the HPBA, I certify that we have read the above statements and agree to abide by the (i) HPBA Bylaws, (ii) HPBA Special Projects Addendum (iii) the Membership Policies and Practices of HPBA.

Signature and Title of Company Officer (Required for Membership)

Date

Print Name

Payment Information

Mail: Send this completed application with a check for the full amount payable to the address below.

Fax: Fax application (**front & back**) with credit card payment to the number below.

Dues Payment \$ _____

He@rth Online Training \$ _____

Please charge my credit card Visa MasterCard AmEx

Amount Owed \$ _____

Credit card # _____ CCV# _____ Expiration date _____

Billing address zip/postal code _____

Name appearing on credit card (*Print Name Clearly*) _____

Signature _____ Date _____

Enclosed is my check in the amount of \$ _____ made payable to Hearth, Patio & Barbecue Association. **Remit U.S. funds only.** For U.S. federal income tax purposes membership dues may be deductible as business expenses, not as charitable contributions. The Omnibus Budget Reconciliation Act of 1993 requires HPBA to inform each member that an estimated 13% percent of dues in 2012 will be allocable to lobbying expenditures as defined by the Act and therefore are not deductible as business expenses.

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**HPBA Special Projects Addendum
NSPS Initiative / DOE Challenge /Glass Fronts & CPSC
(Membership Application Addendum)**

NSPS INITIATIVE

The New Source Performance Standards (NSPS), the primary industry regulation from the U.S. Environmental Protection Agency (EPA), is being revised and updated for the first time since its inception twenty years ago. The NSPS for New Residential Wood Heaters, 40 CFR Part 60, Subpart AAA, is commonly known as the “EPA wood stove certification program” and regulates many subsets of the hearth industry. These NSPS revisions will determine the future of the industry by its impact on the manufacture, production, design, and quality of products.

To curtail any unwarranted expansion of the NSPS regulation, HPBA created a new program – the NSPS Initiative – to coordinate and present the concerns of our members to EPA and educate other decision-makers about the industry. This program has grown to almost 90 HPBA members whose businesses will be directly affected by the new revision. These HPBA members have been assessed, and are paying, an additional amount (coupled with their membership dues) to help fund the HPBA efforts to influence the best possible outcome of a potentially broader NSPS.

Impact of the NSPS on HPBA Members

This new edition of the NSPS will determine the regulatory future of the solid-fuel burning industry for the next decade or longer. A negative outcome in the NSPS revision could result in federal regulations that would severely limit the use, sale or manufacture of some products. Additionally, state regulations and laws that exceed the federal standards could be enacted, especially in those states known for strict environmental regulations. Local efforts to regulate the industry could also become more aggressive.

Alternatively, a positive outcome of the NSPS could result in the hearth industry having a level of federal approval that will allow for unprecedented product development and sales. It is our goal to seek the most positive outcome possible in the current NSPS review by coordinating the concerns of the hearth industry, meeting with EPA staff to continually educate them about our industry, and resolve any conflicts that may emerge by providing the research and arguments necessary to answer any technical or policy questions.

HPBA Briefings of Affected Members

To date, HPBA staff has briefed interested manufacturers on this emerging issue during:

- 1) Coalition conference calls;
- 2) The annual manufacturers meetings during HPBExpo;
- 3) Memoranda with NSPS Initiative policy and technical updates;
- 4) In-person conferences to discuss finer points of the regulatory revision, and to receive consensus regarding policy direction; and
- 5) Stakeholder meetings between EPA officials, HPBA staff and Coalition members.

EPA's NSPS Timeline

2009-10: EPA conducts an initial review of NSPS coverage – DONE
2010: Fall– Small Business Regulatory Enforcement Fairness Act (SBREFA) – DONE
2012: Early – EPA issues a “Notice of Proposed Rulemaking” (NOPR)
Fall – EPA issues a Proposed Rule
2013: Spring – EPA issues a final rule

11/7/2011

The “Notice of Proposed Rulemaking” (NOPR), expected early in 2012, will formally lay out EPA’s proposed scope and targets and invite comment from industry, states, and environmental groups. EPA intends to finalize the rule revision approximately one year after the NOPR, or approximately in the spring of 2013. This date will be strongly influenced by the volume and complexity of comments to the NOPR that they receive. The EPA has acknowledged the probability of a “phase-in period” for some of the changes.

HPBA anticipates that when the NSPS proposal is published in the *Federal Register*, it will contain several regulatory policy alternatives – not just one single alternative – allowing the EPA to make its ultimate choice (for the Final Rule) from the options based on its review of the comments submitted. This is why, during the proposal’s 90-day comment period, HPBA must not only challenge the items in the NSPS proposal about which we disagree with EPA, but we must also offer supporting comments for any option on which we agree with EPA. State and local air quality agencies, as well as the environmental community, will offer very critical comments on this proposal and we must anticipate, and counter, those arguments.

Future Steps

The EPA has completed its review of the Small Business Regulatory Enforcement Fairness Act (SBREFA), the Congressionally-mandated assessment of the impact of the NSPS on small businesses. HPBA has also completed an economic assessment of what the revised NSPS will do to the solid-fuel industry. HPBA continues to quantitatively and qualitatively demonstrate that the EPA-proposed emissions limits would severely harm the solid-fuel industry. With the inclusion of more products – pellet stoves, fireplaces, masonry heaters, etc. – members will be struggling to survive through extraordinary R&D costs on formerly exempt products. There are also continuing discussions on compliance timelines, testing procedures and variability, category definitions, emissions targets, economic impacts and the future of the EPA voluntary programs.

HPBA CHALLENGE to DOE RULEMAKING

As part of its implementation of the Energy Policy & Conservation Act of 1975, the Department of Energy issued a Final Rule on April 16, 2010, that set minimum efficiency standards for gas “direct heating equipment” (DHE). To the shock of all industry participants, the Final Rule defined most decorative gas appliances as direct heating equipment, subject to efficiency standards if its input capacity is 9,000 Btu/hr or greater, effectively banning the sale of decorative gas fireplaces.

To preserve our legal rights and delay the implementation of this rule and its potentially devastating impact on the gas hearth industry, HPBA filed a legal challenge on May 27, 2010, in the U.S. Court of Appeals for the District of Columbia. The legal challenge stated that the decorative provisions of the Final Rule were “promulgated without compliance with procedures required by law and are arbitrary, capricious, unsupported by substantial evidence, and otherwise contrary to law.” And, the NRDC – an environmental group – filed against our challenge and in support of DOE and the final rule. We hired a law firm to represent our legal battle, and staff and industry representatives have met many times with DOE, NRDC, and other groups to educate them on the technical reasons why the ideas about decorative gas appliances that DOE translated into the language on the Final Rule simply will not work.

Settlement negotiations were held for over a year. While there was agreement between DOE and HPBA on what the industry would have to do to get decorative gas fireplaces out of the rule, DOE would not remove decorative gas appliances from being considered as DHE, thereby forcing a non-heating device to meet heating efficiency standards. We had no choice but to terminate our negotiations with DOE.

While negotiations were ongoing, the court case was held in abeyance. After reaching an impasse in negotiations, HPBA went back to the court and asked it to put the case back on the calendar. We did this because we need to get a decision from the court early enough to give our industry sufficient time to comply with whatever requirements we would have to meet following a court ruling.

Our motion to the court was opposed by DOE, which stated that it was publishing a Notice of Proposed Rulemaking (NOPR) that would eliminate the issues before the court. The NOPR – a total surprise to the HPBA

negotiating team – included the substantive provisions for decorative gas fireplaces agreed to during the negotiations (i.e., no thermostats, no standing pilot lights, certified to ANSI Z21.50, and marketed, sold, and labeled as a decorative product not intended for heating), but continued to classify the products as DHE and, therefore, simply subject to similar or more severe heating efficiency regulations at any point in the future. Moreover, the NOPR also classified vented gas log sets as DHE, and also imposed essentially the same requirements for exemption on these products (with the substitution of ANSI Z21.60 for Z21.50), even though, all through the negotiations, DOE agreed that gas log sets – and their being excluded from the regulation – were not an issue for discussion. And the core issue of concern to HPBA – removing decorative appliances from the DHE category – was ignored by DOE by keeping decorative vented gas fireplaces – and now vented gas log sets – listed as DHE. The court ultimately appeared to disagree with DOE's contention that the NOPR would moot the concerns at issue and has now issued a briefing schedule. HPBA's initial brief is due on January 3, 2012 with the final brief being due on March 16, 2012 with a trial date to follow.

DOE has stated in filings with the court that the NOPR regulation is on a fast track and will be made final by November of this year. The NOPR also gave notice of a DOE Public Meeting on the NOPR on September 1st in Washington, D.C. Statements were made by HPBA President Jack Goldman, as well as several member companies and affiliated associations, in opposition to the NOPR. At the Public Meeting, due to the virtually complete lack of any supporting documentation in the NORP docket, Jack Goldman and other participants repeatedly asked for any research or figures upon which DOE relied in reaching their conclusions in the NOPR. Time and time again, DOE answered these direct questions with something to the effect of, "Thank you, we will submit your comment to the record."

The day after the Public Meeting, DOE circulated an e-mail to presenters at that meeting a notice that DOE would be extending the comment period from September 20th to October 14th to "provide additional supporting materials for the NOPR" and "to provide interested parties with adequate time to review and respond to the additional materials." Nearly three weeks after the close of the comment period, DOE has still added only: a spreadsheet that sheds little, if any, intelligence on their basis for the findings, a transcript from the Public Meeting, and a Webinar report on the Public Meeting. Industry, on the other hand has submitted nearly 300 comments in opposition to the NOPR. Additionally, five Members of Congress have submitted personal letters into the docket.

HPBA is now fighting a multi-front war to protect the industry. We must continue our litigation on the original Final Rule, since a victory for the industry may throw out both the first rule and the NOPR – and if we don't continue, we may waive our rights to get provisions of the original rule overturned. We have aggressively confronted DOE on its NOPR at the Public Meeting, in comments and through visits to a large number of Hill offices – and we must be prepared to challenge a new final rule in court, if necessary.

The newest – and currently most active – prong of our DOE Challenge, as well as the avenue that may provide one of the best chances to secure timely and permanent relief, is our effort to lobby the members and staff of the U.S. Congress (the House of Representatives and the Senate). The goal for our lobbying effort is to remove decorative vented gas products (fireplaces and log sets) from any connection to (and classification as) DHE and to give that category its own definition as non-DHE decorative gas appliances. To that end, we succeeded in having a letter sent by 28 Representatives to DOE Secretary Steven Chu, asking him to stop DOE's over-regulation of our industry, and are moving forward with a similar letter from Senators as well as legislative amendment to terminate DOE's actions on our industry.

HPBA will not cease its work on the three fronts – litigation, regulation, and legislation – until we have achieved the protection from unjustified, and unnecessary, regulation the industry deserves.

GLASS FRONTS: Possible Regulations by the Consumer Product Safety Commission

On June 8th, the U.S. Consumer Product Safety Commission (CPSC) published a request for comments on two petitions that it received that requested the regulation of glass fronts on gas fireplaces. One petition, citing two thousand serious burns over a ten-year period, requested regulations making barriers mandatory. The other requested the use of an LED-based warning system that the petitioner invented.

Several years before these petitions were filed, HPBA had created and distributed a consumer brochure to alert consumers of the possible burn hazards of glass fronts. The brochure can be viewed on HPBA's website at www.hpba.org/staysafe. In addition, CSA, the organization that issues safety standards for gas fireplaces, had convened a Working Group to consider what further safety measures were warranted to protect people – especially young children – from burns on glass fronts. The group started meeting in July, 2010, and has since met in May, August, September and October, 2011, with other meetings possible. The CPSC has also been pressured to act from Senator Al Franken of Minnesota, who wrote a letter asking why CPSC had not already acted on this issue. Finally, there have been at least two product liability cases filed against members of the industry, citing the hazards of glass fronts.

In response to the CPSC's request for comment, HPBA hired an attorney, Chuck Samuels, who specializes in CPSC cases and, with his help, organized industry meetings to forge a position. Comments were prepared and submitted by HPBA to the CPSC on August 8th. Several member companies also submitted comments. The HPBA comments can be found at <http://www.hpba.org/members/news-updates/glass-fronts>.

HPBA's comments had two main points. First, the comments pointed to the Consumer Product Safety Act (CPSA), which requires the CPSC to rely on voluntary standards, instead of regulations, whenever possible. HPBA also noted that the CSA Working Group – which includes a CPSC and an HPBA representative – has already been working aggressively on the problem, and that formal changes to CSA's Z21.50 and Z21.88 standards are being expedited. As a result, under the CPSA, the CPSC need not regulate the industry, but should defer to the voluntary industry standard.

Second, HPBA said that it is developing a more aggressive education program to continually educate the public on the possible burn hazards from glass fronts. We also included an outline of what such an education plan could look like.

Our next steps are meetings with the CPSC commissioners and staff to explain to them directly the work that is being done to properly respond to the problem. It is hard to predict the CPSC's final decision – or when it will be issued – but we certainly hope that the commission will defer to the CSA Working Group and work with HPBA on a useful education program.

FUNDING FORMULA FOR NSPS, DOE AND CPSC PROJECTS

Invoicing Details

- 1) Annual costs are estimated to be approximately 10%-15% of a company's dues payment, based on its dues class;
- 2) Invoices are sent out quarterly, or, in the case of the CPSC project, semi-annually;
- 3) Actual expenses are individually billed according to a membership dues proportional rate;
- 4) A company that has a fuel-specific product (such as gas or wood) as a minority portion of its production will pay the full NSPS or DOE assessment. (Example: A company that manufactures 20% wood products and 80% gas products would pay the full NSPS assessment, and a company that manufactures 20% gas products would be held to the same standard for the DOE Challenge); the CPSC assessment will be sent only to manufacturers of the final products; and
- 5) Participation is a condition of membership (i.e., mandatory) for companies who make products affected by these regulations.