

HPBA Small Businesses Speak Out On NSPS

By Leslie Wheeler

On August 25, 2010, representatives from HPBA and its member companies, as well as representatives from allied associations, had the opportunity to address a panel of federal officials and voice their concerns about the ramifications of the New Source Performance Standards (NSPS) on their businesses.

In 1996, President Clinton signed into law the Small Business Regulatory Enforcement Act, known as SBREFA, which allows small businesses to participate in, and have a greater impact on, the development and enforcement of federal regulations. Under SBREFA, the Environmental Protection Agency (EPA) is required to give small businesses a chance to submit comments orally and in writing before it issues its final rule. HPBA-member Small Entity Representatives (SERs) were given that opportunity on August 25 at EPA headquarters in Washington, D.C.

Under the guidance of HPBA's Director of Public Affairs John Crouch, the SERs met at HPBA's offices for presentation tips, message points and rehearsal prior to the EPA meeting. The company rep-

resentatives who could not travel to Washington participated by teleconference. The representatives were advised by Crouch to be very specific about the cost of certifying a product, the cost of establishing a testing laboratory and the number of products requiring certification under the anticipated new NSPS regulations. He also encouraged the members to ask questions of the



panel and reminded the group that this is the only mandated opportunity for EPA to hear and respond to impacted small businesses.

The review panel of federal officials included representatives from the Small Business Administration (SBA), EPA and the Office of Management & Budget (OMB). In addition to the hearth industry representatives physically present, there was also a contingent participating by speaker phone.

The meeting opened with short remarks from Kevin Bromberg of the SBA. Mr. Bromberg, in speaking on behalf of the SBA, said that, in his opinion, EPA had not done its homework on how to regulate the entire solid-fuel industry (includ-

ing pellet stoves, masonry heaters, cook stoves, hydronic heaters, biomass furnaces and coal stoves), and that the agency needed to gather more data from HPBA before negotiating the final rule. In her opening remarks, the representative from OMB noted that she was unaware of the number of different categories within solid-fuel burning appliances and the low number of wood-burning cook stoves that are manufactured each year.

Gil Wood, EPA's lead on the NSPS project, reviewed the various proposals under consideration, including tightening emission limits to reflect today's Best Demonstrated Technology (BDT); eliminating exemptions and closing loopholes; adding pellet stoves, hydronic heaters and furnaces; revising test methods and streamlining the certification process; and regulating fireplaces, alternative biomass appliances and coal-fired heaters. He also added that EPA acknowledged that the downturn in the economy has impacted the hearth products industry's resources for research and development.

In a recap of the meeting, Gil Wood said, "This is a daunting process and there are so many appliances. It is huge for all of us (EPA, SBA and hearth industry). The entire process is going well, and the written comments (from the Small Entity Representatives) are valuable when

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setting our compliance dates.”

HPBA’s John Crouch spoke first to the panel. He recognized EPA’s massive undertaking to revise the old standards and the many different sub-categories for small businesses. Crouch distributed several cut pieces of cord wood and stressed to the panel that the variability of wood – in moisture and density – results in inconsistent test data due to different fires. And, with regard to fireplaces, when the combustion air and fuel can not be controlled, it will require a different test. Crouch proposed that EPA continue the use of the existing voluntary program for new fireplaces and leave this category out of the NSPS until the next review.

Paul Williams, national sales manager of U.S. Stove Company, told the panel that U.S. Stove Company has survived roller coaster economies over many years because of the diversity of their products. The company has products in seven categories and 23 products that were not previously part of the NSPS. He said that getting the products approved and certified within a proposed two-year compliance timeframe is simply not possible. U.S. Stove will soon break ground on an in-house testing facility, which they hope will speed up their products’ certification.

Mitch Pisik of Breckwell Hearth Products reminded the panel that consumers buy these products to save on home heating costs. With the new testing, the cost for stoves will increase, thus extending the time it takes a homeowner to recoup the costs. This will discourage consumers from making the purchase. He informed the panel that the solid-fuel appliance burning industry is small, fragile and currently down economically and that the new NSPS requirements will magnify these stresses.

Scott Jacobs, Ozark Hardwood Pellets, representing the pellet fuel

manufacturers, told the panel that the new pellet fuel standards level the playing field between pellets from the Pacific Northwest (softwood pellets) and those from New England or Mid-Atlantic areas (primarily hardwood pellets). He said that the changes of less than half a percentage in emission levels will have an adverse affect on the market because it will limit the number of stoves and unfavorably affect the residential market.

And, Mike Haefner, president of American Energy Systems, spoke on behalf of agricultural-fuel appliances and asked EPA about the test methods. He emphasized that there are different agricultural fuels and asked whether there would be a test for each one. Homeowners use a multi-fuel appliance as a back up fuel to make sure that they have heat.


Speaking on behalf of outdoor wood hydronic heaters, Frank Moore of Hardy Manufacturing said the new NSPS regulations will impact at least 2,000 employees of his company and his retailers. He reminded the panel of the successes of the Outdoor Hydronic Heater voluntary program in reducing emissions by 70%. He hoped that EPA would compromise with manufacturers and not make the products cost-prohibitive to consumers.

Ben Myren, owner of an EPA-certified test laboratory, suggested that EPA focus on products currently not certified and if a product is already certified, to extend the compliance deadline. He said that it can take a company years to develop the expertise for an in-house testing facility and he anticipates an enormous log jam as manufacturers rush to have products tested by independent labs such as his.

Many of the manufacturers, including Chris Neufeld of Blaze King, voiced their concern about not knowing what the test procedures will be and the huge cost of engineering

already invested in the products.

It was not only manufacturers who spoke to the panel. Speaking on behalf of retailers, Richard Thomas of Courtland Hearth & Hardware in Maryland reminded the panel that when consumers buy a heating product, they are making the purchase for safety, warmth and comfort. He has found that efficiency is very confusing to most consumers and that point-of-purchase materials, such as hang tags, often get lost and are not seen by customers. And, he reminded the panel that the appliances with Best Demonstrated Technology (BDT) are the high-end products but that most of the products sold, at least in his stores, are in the mid range.

At the conclusion of the meeting, EPA’s Gil Wood stressed the importance of written comments from all the SERs (deadline was September 10). These comments are extremely valuable as EPA reviews compliance dates. And, in the end, after all the research, commenting and recommendations, the final rule must be approved by EPA Administrator Lisa Jackson. 

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