

Section 111 of the Clean Air Act, “Standards of Performance of New Stationary Sources,” requires EPA to establish federal emission standards for source categories which cause or contribute significantly to air pollution. These standards are intended to promote use of the best air pollution control technologies, taking into account the cost of such technology and any other non-air quality, health and environmental impact and energy requirements.

The U.S. Environmental Protection Agency (EPA) is committed to at least review all the issues relevant to an update of the 20-year old New Source Performance Standards (NSPS) by the end of the current federal fiscal year. This commitment is in response to requests from states in both the Northeast and the Northwest that strongly encouraged the EPA to proceed with a full and comprehensive update of this program. The EPA has strongly suggested that they plan on expanding the current regulation to a form of certification program for every type of appliance that burns wood and pellets.

In June 2009, the HPBA Board of Directors (BOD) approved the motion to fight for the industry’s interests in any expansion of regulation, birthing The NSPS Initiative. Managed by HPBA’s Government Affairs Department, staff and industry leaders are collaboratively working for the best interests of the industry against an impending regulation supplemented with erroneous data. Through collecting data, writing memoranda and meeting with EPA regularly to educate them about the industry, the NSPS Initiative has been the voice for the industry.

Since all companies who manufacture, distribute and supply hearth products including wood stoves, fireplaces and accessories will be affected, we have issued quarterly assessments to share the cost of the overwhelming burden of fighting the proposed expansion. Although there is a short-term cost burden on both the company and the association, the long-term rewards of producing a satisfactory regulatory outcome will benefit the industry as it transitions into a leading provider of renewable energy in America’s energy portfolio. The NSPS Initiative Coalition has raised over \$50,000.





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Dear Prospective NSPS Initiative Coalition Member:

First, I would like to thank you for your interest in joining the Hearth, Patio & Barbecue Association's NSPS Initiative. The members of the NSPS Initiative are a coalition of the leading solid-fuel manufacturers, distributors and suppliers in North America, who have joined together to fight against the potentially onerous and dangerously imminent government regulation known as the New Source Performance Standards, or **NSPS**.

As you may be aware, the U.S. Environmental Protection Agency (EPA) is currently reviewing the regulation that sets the emission levels of wood smoke from hearth appliances. First promulgated in 1988, the NSPS mandates a regulation of a small portion of the hearth industry — wood stoves. In the current EPA revision, the NSPS will most likely be amplified to include every solid-fuel burning hearth product.

Our industry has a rich narrative of innovation that has expanded the renewable energy portfolio in America. While the first promulgation of the NSPS had a devastating impact on the hearth industry, putting 80-90% of wood stove companies out of business, it also was instrumental in driving the delivery of better features to consumers, increasing overall product efficiency and championing the cleaning of our nation's air quality. The current NSPS revision is not expected to have the same affect, but such a major regulatory expansion, along with the short timeframe for industry compliance and degree of detail, will weaken an already clean and sustainable industry.

HPBA has launched the NSPS Initiative to curtail a negative regulatory outcome. A substantial amount of money has already been spent in both defending the industry, and in proposing consumer and industry-friendly alternatives to EPA's one-size fits all regulatory scheme. However, these actions have created an enormous financial burden that is unsustainable by HPBA. By joining the NSPS Initiative, each member pledges their support by paying a quarterly assessment, based on their dues level.

For more information on the EPA's revision process or the NSPS Initiative, please see the attached memoranda. Also, please do not hesitate to contact Allan Cagnoli (cagnoli@hpba.org), John Crouch (john.crouch.hpba@sbcglobal.net) or Nick Bian (bian@hpba.org) with any more questions you might have.

All the best,

The Government Affairs Department

Our A-Team



David Menotti has been the cardinal legal counsel for HPBA since the original NSPS was first promulgated. His paramount involvement and understanding of governmental regulations and industry concerns have rendered his services invaluable and irreplaceable.

As a Senior Counsel for the law firm Pillsbury, Winthrop, Shaw, Pittman LLP, his practice emphasizes the regulation of hazardous substances under laws such as the Federal Insecticide, Fungicide and Rodenticide Act; the Toxic Substances Control Act; the Federal Food, Drug and Cosmetic Act; and the Clean Air Act. His clients include trade associations and domestic and foreign corporations. Between 1974 and 1982, Mr. Menotti served in various positions at the U.S. Environmental Protection Agency, including associate general counsel, pesticides; associate general counsel, toxic substances; and associate general counsel, air and radiation. He is a frequent writer and lecturer on environmental topics. Mr. Menotti also has been a visiting professor at the University of Virginia School of Law.

Mr. Menotti graduated from the University of Pennsylvania Law School in 1967 with honors. With a preponderance of awards and commendations, most notably include Order of the Coif; Editor, *Law Review*; and received magna cum laude graduate honors. He currently practices and lives with his family in Washington D.C.

Bob Ferguson founded Ferguson, Andors & Company in 1991, offering a full range of product development consulting and regulatory compliance services focused on the hearth, patio and barbecue industry.

From 1980 to 1990, he was Director of Research and Development at Vermont Castings. He has served on the Board of Directors and has held several committee chairs for the HPBA (HPA/WHA) and was a director and officer for the HEARTH Education Foundation. He represented the manufacturers' interests during the Regulatory Negotiations (RegNeg) that resulted in the current EPA New Source Performance Standards for Woodstoves.



Most recently, he provided technical staffing services to HPBA during the development of the ASTM particulate measurement and fireplace emissions test methods, has participated in the CSA B415.1 and B366.1 revision processes and chairs several ASTM task groups and working groups focused on solid fuel-burning appliances. Currently, he is assisting HPBA with technical support for the current NSPS review/revision process that is now underway at EPA.