

August 4, 2014

**Consensus Positions of WESTAR, NESCAUM, and HPBA
“Proposed Standards of Performance for New Residential Wood Heaters,
New Residential Hydronic Heaters and Forced Air Furnaces, and
New Residential Masonry Heaters”**

40 C.F.R. Part 60, 79 Fed. Reg. 6330 (Feb. 3, 2014)

TRANSITION FROM CRIB TO CORDWOOD TESTING

Goal: Wood heater emission limits should be based on tests that correlate better with actual in-use emissions than the current test. There is a common interest among the parties to transition from the current crib-based wood heater certification test to a cordwood-based certification test by first establishing appropriate and efficient test methods, then using those methods to build a robust database to inform EPA’s determination of BSER for wood heaters based on cordwood testing. A related goal is to encourage manufacturers to begin to optimize devices to burn cleaner and more efficiently using cordwood, the fuel that will be used by consumers in the real world. This will provide more useful data on the best emission performance that can be expected under a revised test procedure.

Approach: Transition to a cordwood test should not be implemented in the near-term while a new test procedure is being developed. A workgroup comprised of experts from industry, state/local air quality agencies, and EPA will develop protocols for cordwood testing that are sufficiently accurate and reproducible to reliably predict emissions from wood heaters throughout the device’s burning cycle. Using the protocols established by the workgroup, a database of cordwood-based emission rates will be developed to inform the determination of BSER. All parties will agree in principle on both the approach taken to determine emissions using cordwood and the manner in which the database will be used to set emission standards. EPA should consider establishing this workgroup under the Federal Advisory Committee Act (FACA).

COMPLIANCE SCHEDULE, INCLUDING GRANDFATHERING AND SELL THROUGH

Goal: There is a common interest among the parties in facilitating the development and deployment of new, cleaner wood burning devices while ensuring that economic impacts on manufacturers and retailers are mitigated.

Approach: To achieve this goal, the parties recommend the following:

- Woodstoves
 - Upon the effective date of the rule, currently unregulated or exempt woodstoves may not be manufactured unless certified in compliance with Step 1.

- Retail sales of the currently exempt stoves and currently certified stoves, including currently certified stoves that do not meet the Step 1 emission levels, may be allowed for one year after the effective date of the regulation.
- Certifications of units that meet the Step 1 emission levels will be extended until five years after the effective date of the regulation or when the Step 2 emission standard takes effect.
- Hydronic heaters
 - Only Step 1 compliant hydronic heaters may be manufactured after the effective date of the rule.
 - Retail sales of hydronic heaters that do not comply with Phase 2 requirements of the voluntary program, as tested using methods approved by New York should not be allowed after the effective date of the rule.
 - Models qualified under the EPA Voluntary Program and certified by New York State as of the effective date of the regulation will be deemed certified for 5 years or the effective date of any Step 2 standards, whichever is earlier.
 - Retail sales of hydronic heaters that currently comply with Phase 2 requirements of the voluntary program, as tested using methods approved by New York, may be allowed for one year (assuming EPA's Step 1 emission rates are essentially equivalent to Phase 2 emission rates).
- Warm air furnaces
 - Whereas warm air furnaces are currently unregulated, manufacturers will be required to comply with emission standards immediately and for the first time. Accordingly, EPA's compliance schedule for these devices should require compliance as expeditiously as practicable.
 - Provide 1-year extension of the effective date for the manufacture of these units.
 - Retail sales of warm air furnaces manufactured before the effective date of the rule, that are not subsequently certified to comply with Step 1 emission levels, may be allowed for one year.

OVERSIGHT OF LAB CERTIFICATION TESTING

Goal Provide for state and federal access to witness emission tests while providing flexibility to labs to maintain a constant workload of testing

Approach Labs will provide thirty days' notice of testing to states, subject to a waiver to adjust testing schedules or substitute tests of other products due to cancelled or truncated tests.

CERTIFICATION PROCESS

Goal Provide for a certification process that ensures reliable emissions testing while at the same time allows for efficient and timely processing of certification applications.

Approach All certification data related to emissions should be publicly available.

DELEGATION OF ENFORCEMENT AUTHORITY

Goal Provide for authority to states to enforce proper use and sale of stoves at the local level, but not to delegate authority on nationwide issues. States retain authority to establish more stringent standards than required under the Federal NSPS.

Approach Provide states with partial delegation of authority, to include: (i) enforcement of prohibitions on the installation and operation of appliances in a manner inconsistent with the installation/owner's manual; (ii) operation of catalytic appliances where the catalyst has been deactivated or removed; (iii) sale of unapproved (uncertified, non-grandfathered) models; (iv) enforcement of proper labeling, and (v) compliance with other labeling requirements. Such partial delegation shall not include: (a) decisions on certification, (b) revocation of certification, (c) standards, (d) test methods, (e) enforcing provisions governing content of owner's manuals, (f) hearings and appeals procedures, and (g) establishment of new reporting and recordkeeping requirements.

Nothing in this recommendation is intended to qualify the authority under Section 116 of the Clean Air Act, which allows the states to impose/enforce more restrictive requirements on federally regulated hearth products, is acknowledged.