



January 14, 2019

Andrew Wheeler, Acting Administrator
U.S. Environmental Protection Agency
EPA Docket Center
Docket ID No. EPA-HQ-OAR-2018-0195
Mail Code 28221T
1200 Pennsylvania Avenue NW
Washington, DC 20460

(Submitted electronically via website <https://www.regulations.gov>)

Re: STANDARDS OF PERFORMANCE FOR NEW RESIDENTIAL WOOD HEATERS, NEW RESIDENTIAL HYDRONIC HEATERS AND FORCED-AIR FURNACES (Docket ID No. EPA-HQ-OAR-2018-0195)

Dear Acting Administrator Wheeler:

On November 18, 2018, the U.S. Environmental Protection Agency's ("EPA" or "the Agency") published in the *Federal Register* a Notice of Proposed Rulemaking (NPRM) to revise its 2015 rule, "Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces, and New Residential Masonry Heaters" (hereinafter, "2015 Rule").¹ The National Association of Home Builders (NAHB) appreciates the opportunity to provide comment on the proposal and the impact the action will have on the housing and remodeling industry and the consumers we serve.

NAHB is a trade association whose mission is to enhance the climate for housing and the building industry, including by providing and expanding opportunities for all people to have safe, decent, and affordable homes. NAHB is a federation of more than 700 state and local home builder associations nationwide. The organization's membership includes over 140,000 firms engaged in land development, single and multifamily construction, remodeling, multifamily ownership, building material trades, and commercial and light industrial construction projects. The overwhelming majority of NAHB's members are classified as "small businesses," as defined by the U.S. Small Business Administration, and NAHB members collectively employ over 3.4 million people nationwide. Four out of every five new homes in the U.S. are built by NAHB members.

Background

In this action, the NPRM would amend the 2015 Rule by adding a two-year sell-through period for all affected new hydronic heaters and forced-air furnaces that are manufactured or imported before the May 2020 compliance date to be sold at retail through May 2022. In creating a transitional sell-through period for the sale of "Step 1," during which inventory may continue to be sold beyond the date manufacturers must stop producing the same products, compliant hydronic heaters and forced-air furnaces retailers will have additional time to sell these products after the "Step 2" effective date of May 2020. In addition the EPA is also taking comment on whether a sell-through period for all affected new residential wood heaters is appropriate following the May 2020 compliance date and, if so, how long a sell-through period is needed and why.

¹ See 83 Fed. Reg. 61,574 (Nov. 30, 2018).

NAHB Response

In general, NAHB members are neither manufacturers nor retailers of the categories of heaters covered by the NSPS regulations. However, the implications for the larger supply chain for these regulated heaters will have industry-wide ramifications. The deficiencies in the 2015 NSPS related to the absence of a Step 2 sell-through time frame under the rule has the potential to impact the cost and availability of inventory compliant heaters home builders and remodelers are able to provide consumers. When the 2015 Rule was adopted without any sell-through period EPA inadvertently shortened what was intended to be a five-year window for manufacturers to develop Step 2 compliant products. Absent the transition window provided by a sell-through time frame, retailers have already begun to pull back on orders for Step 1 products out of concern they will end up with stranded inventory that they can neither sell nor give away after the May 2020 effective day for Step 2.

NAHB urges EPA to expand the sell-through period to apply to all types of regulated appliances—wood stoves, pellet stoves, hydronic heaters, and forced-air furnaces. There is nothing in the Clean Air Act (“CAA”) that limits EPA’s authority to stagger compliance deadlines for the manufacture and sale of covered appliances. Moreover the Agency has extended compliance dates for prior new source performance standards (“NSPS”) rules for not only residential wood heating appliances, but also other source categories.²

Furthermore the obstacles EPA has identified as applicable to hydronic heaters and forced-air furnaces may also apply to residential wood stoves and pellet stoves. If retailers have inventory they cannot sell, and manufacture is interrupted because of Step 2 as currently implemented, NAHB members will be unable to supply their customers with these heaters at a reasonable cost or in a timely manner.

NAHB appreciates EPA’s consideration of these comments regarding the proposed amendments to the Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces, and New Residential Masonry Heaters. Please do not hesitate to contact me at (202) 266-8327 if you have any questions or would like to discuss NAHB’s comments further.

Sincerely,



Tamra Spielvogel
Senior Program Manager, Environment Policy
National Association of Home Builders

² See 71 Fed. Reg. 39,154 (July 11, 2006) and 77 Fed. Reg. 49,490, 49,525-26 (Aug. 16, 2012) for examples of previous NSPS rules for other source categories that included delayed compliance dates.