Congress of the United States
Washington, DC 20515

November 19, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Washington DC 20460

RE: The EPA's proposed New Source Performance Standards for warm air furnaces

Dear Administrator McCarthy:

In reviewing the proposed New Source Performance Standards (NSPS) for warm air furnaces, we found that the proposal departs from prior regulations for similar sources under Section 111(b) of the Clean Air Act (CAA), and the timeline for compliance threatens unreasonable economic damage to furnace manufacturers in the United States.[1] The proposed rule, which under the provisions of the CAA must be finalized by EPA by February 3, 2015, would prohibit the manufacture or sale of any warm air furnace that is not certified by EPA within 60 days of the final rule's publication in the Federal Register.[2] That timeline is impossible to achieve without undue harm to market participants. We ask EPA to ensure the compliance timeline for warm air furnaces is at least one year in length.

Prior to this proposal, EPA has never required emissions controls on warm air furnaces, and manufacturers will now be required to modify and submit their models to costly tests prior to certification. Mandating only 60 days to complete the necessary research and development, testing, and retooling of their manufacturing operations is beyond the capacity of many manufacturers. Additionally, EPA's Office of Enforcement and Compliance Assurance (OECA) has informed industry that certification may be unavailable until the 60-day period has expired, and the certification and testing process for manufacturers is further complicated by EPA's drive to transition from crib to cordwood testing, a development that significantly complicates the testing process for these manufacturers. This situation leaves manufacturers no choice but to cease production during the period between the rule's finalization and availability of EPA certification.

Many of the warm air furnace models manufactured are sold to retail home-improvement and hardware stores, which purchase stock several months in advance. Because of their purchasing decision timeline, these stores will now be stuck with non-certified inventory, and

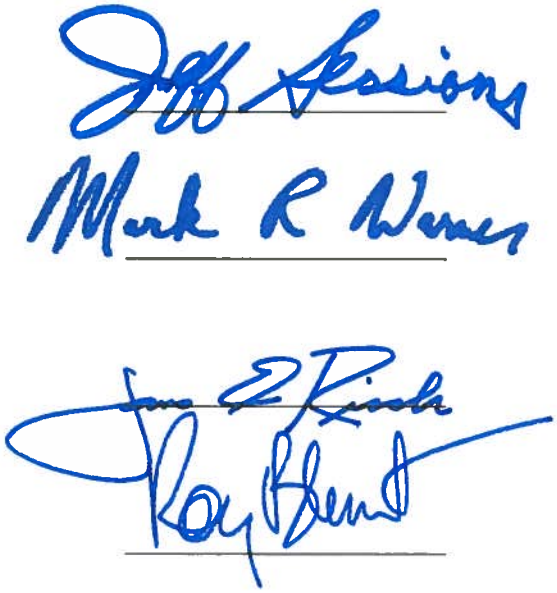
[1] 79 Fed Reg 6330 (February 3, 2014).
[2] 42 U.S.C. § 7411(b)(1)(B).

under the proposed rule, it appears they will be prevented from selling it. Because the content of the final rule remains in flux, inventory stocked for sale throughout 2015 may have to be repurchased by manufacturers at the same time that they are undertaking costly research and development, testing, and certification work.

The "standards of performance" described in Section 111 of the CAA require a consideration of the cost of achieving the associated emission reductions. In this instance, the 60-day timeline for compliance exacerbates the cost. The financial burden that the proposed rule threatens to places on warm air furnace manufacturers – in the form of uncertain certification resulting in production halts as well as manufacturers having to buy back furnaces from retailers – will force many out of business, decreasing consumer choice in the marketplace and increasing unemployment. This stands in contrast to EPA's first NSPS for woodstoves, promulgated in 1988, which allowed small manufacturers a year to attain compliance[3] and staggered effective dates for all other manufacturers.[4] This year-long compliance timeline was set to explicitly ensure that manufacturers could surmount the financial and logistical challenges to certification.

We urge EPA to follow past precedence and ensure the compliance timeline for warm air furnaces is at least one year in length to give consumers, retailers, and manufacturers the certainty necessary to develop and manufacture compliant furnaces. Thank you for your time and attention to this matter.

Sincerely,



[3] *See* 52 Fed. Reg. at 5,000 (Feb. 18, 1987).
[4] *Id.* § 60.532 (1990).

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