



of State Energy Officials

ENERGY'S WASHINGTON VOICE

September 18, 2006

Delivered via email

Dr. Samuel W. Bodman
Secretary
United States Department of Energy
1000 Independence Ave. SW
Washington DC 20585

RE: Docket # EE-RM/STD-01-350
RIN # 1904-AA78

Dear Secretary Bodman:

On behalf of the nation's state energy officials, we are writing to request that the Department of Energy's (DOE's) pending rule for home furnace energy efficiency allow cold-weather states an expedited pathway for implementing a cost-effective standard that is more stringent than the national minimum. Such a pathway would give states more control over energy-demand for home heating and a much-needed tool for helping rein in consumer energy bills.

As you know, national annual average retail prices for residential natural gas sales increased by more than 60% from 2002 to 2005. Despite a mild winter in much of the country, prices in 2006 have remained high, and the Energy Information Administration predicts that residential consumers are unlikely to see much relief in the years ahead. High natural gas prices also are harming businesses, especially those that use natural gas as a feedstock. Improved home furnace efficiency standards help address the challenge of high natural gas prices both directly and indirectly. Consumers purchasing affected equipment will save hundreds, or even thousands, of dollars on their heating bills over the life of a furnace. By easing demand for natural gas, improved standards help to indirectly lower prices for all natural gas consumers.

In August 2004, DOE published its Advanced Notice of Proposed Rulemaking for the home furnace rulemaking. At that time, DOE concluded that it lacked legal authority to set a national standard that would apply one efficiency level in warm climate regions and a stronger,

1414 Prince Street
Suite 200
Alexandria, Virginia 22314
Telephone: 703.299.8800
Facsimile: 703.299.6208
Home page: www.naseo.org

BOARD OF DIRECTORS

Chair

PETER SMITH
New York

Vice Chair

WILLIAM (DUB) TAYLOR
Texas

Past Chair

SARA E. WARD
Ohio

Treasurer

ELIZABETH ROBERTSON
Georgia

Secretary

JEFF HERHOLDT
West Virginia

Parliamentarian

WILLIAM NESMITH
Oregon

Regional Representatives

TOM FULLER
Wyoming

JANICE McCLANAGHAN
Rhode Island

CHARLES J. CLINTON
District of Columbia

LARRY SHIRLEY
North Carolina

BETH NAGUSKY
Maine

ANITA RANDOLPH
Missouri

KIMBERLY WALKER
Wisconsin

VAUGHN CLARK
Oklahoma

ERIC THUMMA
Pennsylvania

JOHN DAVIES
Kentucky

ROBERT HOPPIE
Idaho

MAURICE KAYA
Hawaii

Affiliates' Chair

KEN MENTZER
NAIMA

Executive Director

DIANE S. SHEA

General Counsel

JEFFREY C. GENZER

more efficient level in colder regions. As a result, the Department faces a dilemma as it prepares to publish the proposed rule later this year: set a weak standard which is cost-effective in warm weather regions, but leaves huge natural gas and dollar savings untapped in cold-weather regions *or* set a strong standard that reaps very large natural gas savings for the nation, but imposes costs greater than benefits for consumers in the warmest-weather states. In limiting itself to a single standard level, DOE must choose to either inflict a too-stringent standard on warm regions or a too-lax standard on cold regions.

Giving greater control back to the states offers a way out of this dilemma. In general, the national appliance standards law preempts states from setting standards stronger than the national minimums. This provision exists, in part, to prevent proliferation of varying state standards. At the same time, the law recognizes that state needs sometimes diverge from national averages and provides for waivers from federal preemption.

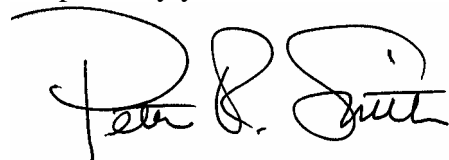
However, as defined under federal law, the hurdle to receive a waiver is fairly high. In addition, multiple states applying for waivers for various standard levels could result in precisely the sort of patchwork that federal law is meant to avoid, and/or make it difficult for DOE to grant waiver requests.

DOE can solve these problems in the pending proposed rule. First, the states recommend that DOE name a specific standard level for which the Department will give preference in waiver applications. By naming a specific level for cold-weather states, DOE will help avoid a proliferation of differing standards levels. Instead the nation would have two-levels: one applied nationally, and another for cold-weather states that choose to opt-in to the stronger level through the DOE waiver process. We recommend that as the preferred level for waiver applications, DOE specify the efficiency level already enacted by the states of Massachusetts, Rhode Island and Vermont for natural gas furnaces.

Second, we recommend that DOE provide expedited procedures and consideration of waiver applications that conform to DOE's specified level. We note that DOE's thorough analysis for the federal rulemaking will provide a base of knowledge for evaluating state waiver applications. A promise of expedited procedures and consideration will give states the confidence they need to advance waiver applications with a reasonable expectation of favorable review by DOE.

In closing, we greatly appreciate your attention to this crucial energy-saving standard. We view the pending furnace standard as an opportunity for DOE and the states to work in a partnership enabling each state to best meet efficiency needs while remaining true to the goal of overall national energy savings.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Peter R. Smith". The signature is written in a cursive, flowing style with a large initial "P" and "S".

Peter R. Smith

Chairman, National Association of State Energy Officials &
President and CEO, New York State Energy Research and Development Authority

cc: Alexander A. Karsner
NASEO Board of Directors
Diane S. Shea, Executive Director, NASEO
Jeffrey Genzer, NASEO General Counsel