

Joint Comment on the Rulemaking Analysis Plan for Residential Furnaces, 75 Fed. Reg. 12,144 (issued Mar. 15, 2010)

submitted by:

**American Council for an Energy-Efficient Economy
Air-Conditioning, Heating and Refrigeration Institute
Alliance to Save Energy
Appliance Standards Awareness Project
California Energy Commission
National Consumer Law Center
Natural Resources Defense Council
Northeast Energy Efficiency Partnerships
Northwest Power and Conservation Council**

April 27, 2010

Docket Number: EERE-2009-BT-STD-0022
RIN: 1904-AC06

We are writing to reiterate our strong support for the furnace and central air conditioner standards recommended to DOE by manufacturers and various efficiency advocates, state agencies and other entities. In particular, we would like to address three specific issues related to the next standards for these products: 1) the particular benefits of the joint agreement recommendations; 2) timing of a final rule; and 3) treatment of related standards not addressed by the joint agreement.

Benefits of the joint proposal: The Joint Stakeholder agreement (“the agreement”)¹ includes several aspects which we believe will lead to the best possible overall outcome. As described in the complete agreement (attached), most elements can be adopted by DOE and are within the scope of DOE’s authority under EPCA, but some features will require Congressional action. Key elements include the following:

- Accelerated effective dates: The new furnace standards would take effect just two years after the date on which a final rule is due (May 2011) and the new central air conditioner standard would take effect three and one-half years after that final rule is due (June 2011). These effective dates are significantly accelerated

¹ The following organizations and companies submitted the joint recommendation: Air-Conditioning, Heating and Refrigeration Institute; American Council for an Energy-Efficient Economy; Alliance to Save Energy; Natural Resources Defense Council; Northwest Power and Conservation Council; Appliance Standards Awareness Project; California Energy Commission; Northeast Energy Efficiency Partnerships; Bard Manufacturing, Inc; Carrier Residential and Light Commercial Systems; Goodman Global, Inc; Lennox Residential; Mitsubishi Electric and Electronics USA; National Comfort Products; Rheem Manufacturing Company; Trane Residential, and; Desert Aire.

relative to the historic lead times for these products and will result in savings happening sooner than might otherwise be the case.²

- Acceleration of the next review: Under the terms of the agreement, industry, state agencies and advocates support an expeditious DOE review of the agreed-upon standards, with the next furnace standard to be completed by 2014 (effective 2019) and the next central AC standards by 2017 (effective 2022). The initial and next-round effective dates represent a significant facet of the larger agreement, and we expect that manufacturers would strongly resist DOE's imposition of this timetable absent adoption of the standard levels set out in the agreement. Moreover, because the subsequent reviews will build on the market progress initiated by the agreed-upon standards, they offer the potential for significant additional savings. We expect that the initial standards will set in motion market pressures for innovation that will make even higher levels attainable in the next-round standards.
- Peak demand standards for the hot-dry climate: Representatives from California and other states dominated by hot-dry climate zones feel very strongly that air conditioner standards must include an EER requirement to better capture actual performance in their region. Manufacturers had previously strenuously opposed inclusion of EER, arguing that their design options would be more limited and their testing burden increased by having two efficiency requirements. Their support for EER *and* SEER requirements for the hot-dry region was a significant concession and will pave the way for equipment that better meets the climate needs of that region.³
- Encouraging better building codes: Existing federal law severely limits the options for incorporating appliances into state building codes. In general, state codes cannot require levels of appliance and equipment efficiency that exceed the efficiency levels in federal appliance standards, although existing law provides a limited opportunity for exemptions. These limits prevent states from reaping efficiency improvements in space conditioning equipment, which may be especially cost-effective in new construction, and hamper efforts to customize building codes to suit varying climatic zones within a single state. As part of the agreement, manufacturers and efficiency advocates agreed to support legislative changes that will enable states to provide packages of options for builders that maximize both energy efficiency and consumer choice.

We support the agreement as a balanced package that will achieve very large energy, economic and environmental benefits and provide regulatory certainty. We strongly urge DOE to adopt the regulatory aspects of the agreement in their entirety; partial adoption would jeopardize the overall agreement.

² Earthjustice addresses DOE's legal authority for the proposed effective dates in separate comments.

³ Earthjustice and NRDC addressed DOE's legal authority for EER and SEER standards in a legal memo submitted dated March 19, 2010.

Timing of the final rule. Out of fairness to all stakeholders, we urge DOE to expedite completion of a final rule, either through a Direct Final Rule or through the normal rulemaking process. As noted above, manufacturers have agreed to accelerated effective dates. The certainty of a final rule will let them proceed with design and production capacity changes with confidence. In addition, because these are the first ever regional standards, distributors and installers may have new responsibilities for compliance. The law requires that DOE complete a separate rulemaking on regional standards enforcement within fifteen months of publishing final standards. With the furnace implementation date just three years away, DOE needs to complete the standards so it can address the enforcement rule in a timely way.

Related standards outside the scope of the agreement. In DOE's March 15th Rulemaking Analysis Plan for furnaces, two issues surfaced that are not covered by the agreement: electrical standby requirements for furnaces and standards for furnace fans. We believe that both of these issues can be addressed by DOE without impeding accelerated adoption of final rules implementing the agreement.

With respect to furnace standby electricity use, our strong preference is that DOE develop a separate metric that will discourage energy waste in standby mode. Standby electricity usage for furnaces is significant, but subsuming it into an overall efficiency metric for furnaces will subvert the goal of energy savings since this electricity usage is very small relative to the appliance's total energy use.⁴ DOE should adopt the AFUE levels for furnaces as recommended in the joint agreement and concurrently develop separate standards for standby electricity usage.

With respect to furnace fan standards, we very much appreciate DOE's commitment to address this important energy use. However, the furnace fan rulemaking and analyses will be more complicated than typical DOE proceedings.⁵ We are skeptical that it can be completed within a year, as DOE proposes. We encourage DOE to combine analysis for the furnace, central air conditioner and furnace fan rulemakings to the extent possible to conserve agency resources, but believe that the final rules for furnaces and air conditioners can be completed much earlier than a final rule for furnace fans – especially if the furnace and air conditioner rules are based on the joint agreement.

Finally, we would like to emphasize the historic role of joint agreements such as this one in advancing national appliance standards. DOE has explicitly encouraged these sorts of joint agreements over the course of three administrations. Previous joint agreements formed the basis for the 1997 refrigerator, the 2000 ballast, and the 2001 clothes washer rules. DOE advanced a final rule for commercial air conditioners based on a 2004 joint agreement, but Congress enacted the standard before DOE could complete its process. By bringing all or nearly all of the most active stakeholders together, they smooth adoption through the administrative process, thereby conserving agency resources for

⁴ ACEEE and PG&E address this issue in their respective comments to the furnace docket.

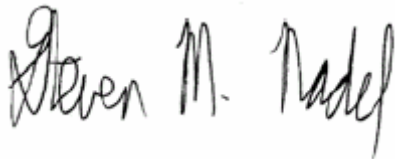
⁵ Several factors contribute to this complexity: this is the first time DOE will address this end-use; a federal test method has not yet been completed; interactions with central a/c and furnace standards must be accounted for; field variations in duct system performance complicate savings modeling.

other, potentially more contentious, proceedings. DOE's receptiveness to this sort of agreement also serves to build stakeholder confidence in and support for the DOE program.

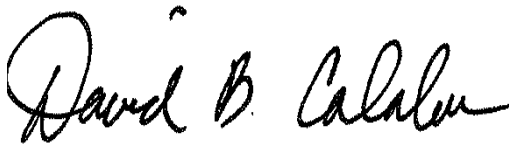
In summary, we again urge adoption of the recommended furnace and central air conditioner standards on as accelerated a schedule as possible. The joint agreement includes a combination of efficiency metrics and levels, effective dates, subsequent rulemakings and legislative reforms that, we strongly believe, will lead to larger energy savings than would otherwise be likely to result from DOE rulemaking absent an agreement. We urge you to issue final rules based on our recommendation as soon as possible.

Thank you very much for your consideration.

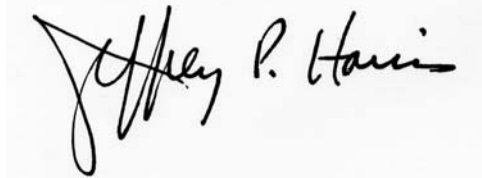
Sincerely,



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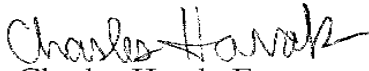
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Attachments (Jan. 15th Joint Stakeholder letter to DOE)