



July 30, 2012

The Honorable Steven Chu
Secretary of Energy
U.S. Department of Energy
1000 Independence Avenue SW
Washington, DC 20560

Re: AHRI Petition for an 18-Month Extension
of the May 1, 2013, Effective Date of Amended
Federal Minimum Efficiency Standards for
Residential Non-Weatherized Gas Furnaces

Dear Mr. Secretary:

The amended federal minimum efficiency standards for residential non-weatherized gas furnaces contained in the direct final rule published in the June 27, 2011, Federal Register and later confirmed in the October 31, 2011, Federal Register has an effective date of May 1, 2013. The Air-Conditioning, Heating, and Refrigeration Institute (AHRI) respectfully petitions the U.S. Department of Energy (DOE) for an 18-month extension of this effective date. This extension of the standards' effective date is needed in order for manufacturers to have adequate time to prepare for compliance with regional furnace standards and related standards enforcement and product labeling requirements, and to ensure that any changes in furnace minimum standards are timed to coincide with the start of the 2014-2015 heating season. We request that DOE grant this petition as soon as possible, but by no later than September 15, 2012; otherwise, manufacturers and distribution channels will begin to incur significant market disruptions and economic losses as they will have to re-position product offerings and distribution for the upcoming heating season. The 18-month delay would make the effective date to November 1, 2014. This is still two years before what would have been the normal effective date for these standards and less than two years from DOE publication of its enforcement rule, assuming that DOE publishes this rule near the end of this year.

In its direct final rule, DOE adopted the AHRI-supported consensus amended furnace standards applicable to products manufactured on or after May 1, 2013, wherever installed. Using the date of manufacture as the standards' effective date is the traditional approach that avoids market disruptions and economic losses caused by potential stranded inventory. DOE has since taken the position that the agency is bound by statute to apply the 90% AFUE furnace standard for the northern region of the country to furnaces installed in that region on or after May 1, 2013, (ref. June 16, 2012, letter from Deputy Assistant Secretary Kathleen B. Hogan to me). Making the effective date of the regional standard for furnaces the date of installation instead of the date of manufacture is not what the parties that signed the consensus agreement contemplated, and it effectively advances the implementation of the standard by a minimum of eight months. That is the amount of time it would take distribution

channels from manufacturers to distributors to installers to do what is necessary to avoid having stranded inventory as of May 1, 2013. Economic losses throughout the distribution channel in the rapidly approaching 2012-2013 heating season can be avoided by delaying the effective date of the amended furnace standards, as requested. The requested 18-month extension will likewise avoid market disruptions caused by a standards change in the middle of the 2013-2014 heating season.

AHRI is requesting an 18-month extension of the effective date of the furnace standards for the further reason that DOE has not yet prescribed what manufacturers, not to mention distributors and installers, must do to establish compliance with regional standards. Inasmuch as DOE has not even published a proposed rule on regional standards enforcement and recognizing that under the Energy Policy and Conservation Act (EPCA) DOE has 15 months from the date it prescribes regional standards to prescribe regional standards enforcement rules, AHRI assumes that it will be the end of the year before a final rule is published. We do not know what the final rule will require of manufacturers, but if it imposes obligations to track products or to submit additional information, manufacturers should be allowed a minimum of 12 months to begin compliance. Distributors and contractors will, of course, have their own compliance lead time needs depending on what they are required to do by the final rule.

Product labeling for regional standards enforcement is an additional concern requiring several months of lead time for compliance. In the June 16, 2012, letter from Deputy Assistant Secretary Kathleen Hogan, AHRI was advised to contact the Federal Trade Commission (FTC) about any such concerns "as this matter is outside the scope of DOE's authority." AHRI will certainly do so. However, since product labeling will be an integral part of any regional standards enforcement scheme, we strongly urge DOE and the FTC to coordinate their activities in this area, including scheduling of proposed and final rules. Of course, only DOE, and not the FTC, has the legal authority to coordinate standards effective dates with rules related to enforcement of those standards.

AHRI presumes that DOE supports Congress's objective to expedite standards' rulemaking through adoption of consensus standards via direct final rules. That was certainly AHRI's intent in negotiating consensus amended furnace and central air conditioner standards -- and the effective dates of those standards -- with other stakeholders and presenting them to DOE for adoption in January 2010. We gave up the statutory 5-year lead time for standards compliance and compromised on a May 1, 2013, effective date for the amended furnace standards based on date of manufacture, thinking that DOE would publish a direct final rule adopting the consensus standards within 6 months, i.e., June of 2010. We knew that DOE would then have 15 months to prescribe rules for enforcement of the standards, taking us to October 2011. The May 1, 2013, date would then have provided at least 18 months for industry to prepare for compliance with the standards and related certification and enforcement requirements. We did not anticipate that it would take DOE nearly two years to publish a direct final rule adopting the consensus agreement, thereby greatly compressing the lead time for compliance. As previously mentioned, the signatories to the consensus standards agreement also proposed regional standards effective dates based on date of manufacture and not on date of installation so that stranded inventory would not be a complicating factor.

If this had been a traditional contested rulemaking and DOE had published a final rule prescribing regional furnace standards on October 31, 2011, DOE and the FTC would have had to publish their respective final rules on regional standards enforcement and product labeling by January 31, 2013. The effective date of the new furnace standards would have been October 31, 2016, 5 years after

publication of the standards' final rule and 3 years and 9 months after publication of the final rules on standards enforcement and labeling.

Regional standards and direct final rules are new both to DOE and to industry and other stakeholders, and all of us are learning from experience. AHRI has readily engaged in negotiating consensus standards in order to expedite the rulemaking process, and does not want this to be a disappointing endeavor, discouraging us from ever doing it again. We ask that DOE recognize and appreciate where we started from and how much we compromised and adjust the furnace standards' effective date to allow manufacturers, as well as distribution channels, adequate time to prepare for compliance.

Respectfully submitted,



Stephen R. Yurek
President & CEO

Cc: FTC
ACEEE
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ASE
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HARDI
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