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Industry Under Attack: An “All Hands on Deck” Moment for HPBA

By Jack Goldman

One of the reasons HPBA exists is to protect your business

from unwarranted government action and to swiftly respond to attacks on the industry. Unfortunately we are in a situation that, though not unexpected, is poised to have a real and lasting impact on your business. We are under siege on a growing number of fronts and these attacks have the potential to affect all the products you sell. This is an “all hands on deck” moment.

Solid Fuel Hearth Appliances

The solid fuel side of our industry is facing the most critical challenge in the last 25 years. On January 3rd, EPA released the formal proposal of their revision to the New Source Performance Standards (NSPS). The NSPS are the rules governing particulate emissions from solid-fueled hearth appliances, and requires that products covered by the regulations meet emissions limits and are certified as meeting those limits.

The proposal would require manufacturers of these products to build a generation of devices that burn even cleaner than models on the market today. The rules would go into effect in 2015. As with the existing 1988 NSPS, the proposed revisions would phase in the limits for particulate matter.

Not only does this current proposal lower emissions targets for woodstoves, it revises the entire certification process, including the test method, which compounds the issue. The combination of the lowering of limits AND changing the test methods AND ultimate switching from crib wood to cordwood in those test methods are among the most daunting elements of the new proposal. For instance, the step two phase requirement for woodstoves (1.3 grams/hour) would be based entirely on the as-yet-unfinished cordwood test method. Under these circumstances, it is hard for the manufacturers to know if they can meet the new lower limits.

The proposal also brings all pellet stoves, wood furnaces, wood hydronic heaters, and masonry heaters (all of which were not addressed in the original NSPS) into the EPA certification process. Wood-burning appliances not covered by the proposal include indoor and outdoor fireplaces, pizza ovens, and barbecues, as well as heaters that are fueled solely by oil, gas, or coal. The proposal does not include a transition or “sell-through” provision for new newly covered products like wood furnaces, hydronic heaters, and masonry heaters. Manufacturers would have very short timeframes to meet the new standard.

Cost for research and development is also a major factor. Small businesses would bear the brunt of this burden. If adopted, compliance with the rule has the potential to significantly raise the cost of stoves, making their purchase by the consumer out of reach. The fact is, that of the 13 million woodstoves currently in use, six million are old, inefficient, and non-certified. Replacing those old units with current models would have a far better impact on the environment. Forcing new appliances to meet an onerous requirement, not tested in the real world and with no reliable data to back it up, is just bad policy.



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The release of the 350-page proposal begins a formal public comment period, which will be 90 days from the publication in the *Federal Register* (which was about to be published at press time). EPA will consider those comments and then issue a final version of the rule, possibly in early 2015. HPBA has been preparing for this moment for the last four years and will be filing extensive comments on all aspects of this proposal after thorough briefings with our consultants, lawyers, and those manufacturers directly affected.

Manufacturers will be able to review this package together at the Solid Fuel Hearth Appliance Section meeting at HPBExpo in Salt Lake City on March 5 at 8:00 a.m. There will also be an education session and briefing for retailers and reps on Friday, March 7 at 1:00 p.m.

Gas Hearth Appliances

Second on our list is the Department of Energy (DOE) proposed rulemaking that could impact all gas hearth products.

On December 31, DOE published a "Proposed Determination of Hearth Products as Covered Consumer Products" in the *Federal Register*. The publication began a 30-day comment period. As of this press time, we are preparing comments with the help of industry and legal and technical experts.

The rulemaking seeks to establish "coverage" over essentially all gas hearth products. It has the potential to impact even more products than the rulemakings that HPBA successfully challenged in court last February. In that case, the U.S. Court of Appeals for the D.C. Circuit ruled in favor of HPBA in its challenge of two rules. The court, finding that DOE exceeded its authority in regulating a new class of products without following required procedures, struck the definition of "vented hearth heater" from the DOE rulemakings. We have enlisted the same lawyer who worked on that case on our behalf.

Although there are no energy standards directly proposed or put into place by this proposal, DOE states that if these gas appliances are determined to be covered, DOE is free to impose energy efficiency standards on them. This rule could severely limit what products manufacturers could produce, retailers could sell, or customers could purchase.

The proposed DOE definition of "hearth product" is "a gas-fired appliance that simulates a solid-fueled fireplace or presents a flame pattern (for aesthetics or other purpose) and that may provide space heating directly to the space in which it is installed."

The proposed DOE definition of "hearth product" is "a gas-fired appliance that simulates a solid-fueled fireplace or presents a flame pattern."

The proposed definition includes all vented decorative hearth products, vented heater hearth products, vented gas logs, gas stoves, outdoor hearth products, and vent-free hearth products. This definition is so broad that it may include fire pits or, although less likely, even gas grills. Virtually every gas-fired product could be subject to energy efficiency requirements, input limits, or other restrictions.

DOE is anticipating a future rulemaking to address energy efficiency or conservation standards for at least some gas hearth products. While it is not yet known exactly on which products DOE will seek to apply efficiency standards, the reality is that this rulemaking would open the door for them to do so for any of the products listed. Every product would be fair game for regulation.

The Gas Hearth Appliance Section will be meeting on Wednesday, March 5 at 9:30 a.m. at HPBExpo in Salt Lake City to review this rulemaking with manufacturers.

It will be a very busy year for the industry. HPBA will be seeking members' input on the issues that directly impact them. We urge you to be ready to participate. 



The HPBA Journal is intended to provide in-depth information to the hearth and outdoor products industry. Statements of fact and opinion are the responsibility of the authors alone and do not necessarily reflect the opinions of the officers, board, staff or members of the Hearth, Patio & Barbecue Association.

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