Department of Energy
Washington, DC 20585

June 22, 2022

Gerald M. Howard
President & Chief Executive Officer
National Association of Home Builders
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Dr. Mr. Howard:

Thank you for your May 23, 2022, letter on behalf of the National Association of Home Builders. The Department of Energy appreciates your explanation of the HVAC installation process and timeline, supply chain issues, and the limited resources of small businesses. DOE has carefully considered these concerns but, at this time, we are not planning to issue an industry-wide stay of enforcement for the January 2023 regional standards.

DOE's Enforcement Office is committed to fairness in administrative enforcement and adjudication, and routinely exercises discretion in determining which enforcement cases to pursue and how best to use its resources. Indeed, we recognize that manufacturers across various industries are facing unique and unforeseeable supply chain issues, especially in light of the global effects of the pandemic. We also recognize that the scope of those impacts will vary by company, by product, and possibly even by model. In exercising enforcement discretion, we take into account the full range of these circumstances and their impacts.

We also consider factors that may be unique to particular products or equipment, including the lead time in advance of the relevant compliance date. In this regard, we note that the regional standards applicable to central air conditioners installed on or after January 1, 2023, were adopted in a direct final rule over four years ago, in January 2017. Moreover, the rule was a product of negotiated rulemaking that included various manufacturers and trade representatives.

Although DOE will not be issuing an industry-wide enforcement policy at this time, my office remains interested in details of specific supply-chain issues—and their supporting documentation—associated with the components necessary for designs that comply with the regional standards. This, of course, may involve individualized information that DOE would evaluate on a manufacturer-specific basis.

Also, as you are likely already aware, there is a specific process for manufacturers who seek an adjustment from a DOE rule, regulation, or order under the authority of 42 U.S.C. § 7194. For more information on this process, please contact the DOE Office of Hearings and Appeals at OHA.filings@hq.doe.gov or (202) 287-1566.

Thank you for your interest in the January 2023 regional standards. If you have any other questions, please do not hesitate to let me know.

Sincerely,



Emily H. Su
Assistant General Counsel
Enforcement