

**Attorneys General of New York, Maryland, Massachusetts, Oregon, Rhode  
Island, and the Puget Sound Clean Air Agency**

December 12, 2017

The Honorable John Barrasso  
Chairman  
Senate Committee on Environment and Public Works  
317 Russell Senate Office Building  
Washington, DC 20510

The Honorable Thomas Carper  
Ranking Member  
Senate Committee on Environment and Public Works  
322 Hart Senate Office Building  
Washington, DC 20510

Re: S.1857: Extending the Clean Air Act Compliance Deadline to Year 2023  
for Certain Residential Wood Heaters

Dear Chairman Barrasso and Ranking Member Carper:

We, the undersigned Attorneys General and the Puget Sound Clean Air Agency, write to express our opposition to Senate Bill 1857, which would extend the deadline until May 15, 2023 by which certain new residential wood heaters (principally, wood stoves and wood hydronic heaters or “boilers”) must comply with Clean Air Act emissions limits. Our coalition filed a lawsuit in 2013 to compel EPA to revise its outdated 1988 New Source Performance Standard (“NSPS”) for new residential wood heaters, as required by Section 111(b)(1)(A) of the Clean Air Act. We subsequently participated in the EPA rulemaking that strengthened emissions limits for new wood stoves and established the first emission standards for new wood boilers in 2015.<sup>1</sup> EPA’s final rule included a phased compliance approach that provided wood heater manufacturers with five (5) years – until 2020 – to meet the Step 2 emission limits that EPA determined met the statute’s required “best system of emissions reduction.” The final rule’s phase-in period responded to comments and information provided to the agency by manufacturers regarding the feasibility of implementing the standards. Accordingly, the delay contemplated by this legislation is unwarranted and is not supported by the factual record. The three year delay provided by the bill would pose significant adverse health risks to our citizens, and would unfairly penalize wood heater manufacturers that have invested to meet the current 2020 compliance date.

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<sup>1</sup> 80 Fed. Reg. 13672 (March 16, 2015)

**Additional Health Risks from Delay:** Delaying the 2015 NSPS’s Step 2 emission limits until May 15, 2023 would pose additional adverse health risks to our citizens. Wood smoke contains a mixture of fine particles (“soot”) and toxic air pollutants that are linked to serious public health impacts, including asthma attacks, heart attacks and premature death. In addition, EPA has determined that residential wood smoke causes many counties in the U.S. to either exceed the EPA’s health-based national ambient air quality standards (NAAQS) for fine particles or places them on the cusp of exceeding those standards. 80 Fed. Reg. at 13,672-73. In New York, where less than two percent of residents heat with wood, residential wood heating nevertheless accounts for forty-one percent of the state’s particulate emissions, which is more than the particulate emissions from all motor vehicles and electric generating sources in the state combined. *See New York State Wood Heat Report, 2016.*<sup>2</sup>

In adopting its 2015 NSPS, EPA determined that as older, higher emitting, less efficient wood heaters are replaced by newer heaters that meet the requirements of the rule, the cleaner new wood heaters will reduce fine particle “soot” pollution by almost 10,000 tons per year, leading to substantial reductions in human exposure and reduced health impacts. EPA estimated annualized health benefits from implementing the rule between \$3.1 billion to \$7.6 billion versus annualized costs of \$45.7 million, resulting in net benefits of more than 100 times the costs. 80 Fed. Reg. at 16,374. The bill would improperly forestall these significant benefits.

**EPA Accommodated Manufacturers in its Rulemaking:** Section 111 of the Clean Air Act requires EPA to set standards of performance (“NSPS”) for categories of sources that cause or contribute significantly to air pollution, and which may reasonably be anticipated to endanger public health or welfare. 42 U.S.C. 7411. In adopting its 2015 NSPS for residential wood heaters, EPA considered a number of factors, including: the incremental costs associated with the new wood heaters, the economic impacts to manufacturers, and the foregone emissions reductions and public health impacts from delaying production or delaying the effective dates of the rule. EPA also considered that wood heater manufacturers are comprised mostly of small businesses, and that residential wood heaters are different from most emissions source categories in that they are a mass-produced consumer product. In consideration of these factors, EPA determined that the best system of emissions reduction for residential wood heaters was a stepped (phased) approach that paired a “Step 1” emissions limit with a 2015 compliance deadline, and a “Step 2” emissions limit with a 2020 compliance deadline. 80 Fed. Reg. at 13,675.

EPA took manufacturer concerns into account by setting its Step 1 emissions limits such that most wood heaters on the market would qualify, and its Step 2 limits at a level demonstrated achievable by a large segment of the market. For example, EPA noted in its final rule that 85 percent of wood stoves on the market met the Step 1

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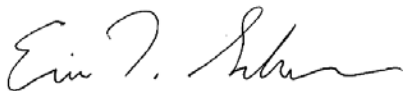
<sup>2</sup> Available at: <https://www.nyserda.ny.gov/-/media/Files/Publications/Research/Biomass-Solar-Wind/15-26-NYS-Wood-Heat-Report.pdf>

emissions limit, as would 50 models of wood boilers that had qualified under EPA's voluntary partnership program since 2011. 80 Fed. Reg. at 13,678-80. Furthermore, EPA noted that nearly one-fifth of wood stoves and wood boilers on the market in 2015 already met the Step 2 standard. 80 Fed. Reg. at 13,686-87. EPA also included in its final rule a generous retail sell-through provision (enabling retailers to sell inventory on hand), alternative compliance options, streamlined certification procedures, and other provisions adopted to minimize any potential impacts to manufacturers and retailers.

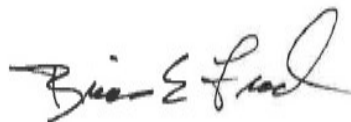
**Administrative Remedies are Available:** As you may know, the Hearth, Patio and Barbecue Association, which represents some manufacturers of residential wood heaters, has challenged the 2015 NSPS, including specifically the Step 2 emissions limits that the Committee is contemplating extending through this legislation, *Hearth, Patio, and Barbecue Ass'n v. EPA*, D.C. Cir. No. 15-1056. Our state coalition members are participating as friends of the court in support of the final rule. If EPA believes that any technical or implementation feasibility issues exist that warrant postponing the 2020 deadline, the agency could seek to reconsider this aspect of the final rule and seek input from states, businesses, and the general public on whether any changes to the 2015 NSPS are appropriate.

In consideration of these factors, we oppose S.1857, and urge you to oppose its passage.

Sincerely yours:



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