

Statement for the Record

On behalf of the
National Association of Home Builders

Before the
House Energy and Commerce Committee
Subcommittee on Energy and Power

Hearing: "State Perspectives: Questions Concerning EPA's Proposed Clean Power Plan"

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Contact Info:
Billie Kaumaya
NAHB
1201 15th Street, NW
Washington, DC 20005
202-266-8570
bkaumaya@nahb.org

Introduction

NAHB appreciates the opportunity to submit this statement to the House Energy and Commerce Committee in response to the record of the hearing titled, “State Perspectives: Questions Concerning EPA’s Proposed Clean Power Plan.” NAHB wishes to express our serious concerns regarding the EPA’s proposed rule to use section 111(d) of the Clean Air Act to regulate greenhouse gas (GHG) emissions for existing fossil fuel-fired power plants and its potential to impact home builders and home owners. NAHB appreciates the Committee exercising its oversight responsibilities by holding hearings on this issue and we share their concerns about the impact this rule will have on energy prices and grid reliability. NAHB believes the Committee should investigate how this rule will impact the housing industry and potentially result in new federally-enforced energy codes and mandates on consumers.

Energy codes set the baseline energy efficiency requirements in a building. Historically, states and localities have maintained the authority to adopt and enforce energy codes. Neither EPA nor any other federal agency has authority to enact a federal energy code. By including the adoption of energy codes in a state’s implementation plan, these state and locally adopted codes may become federally enforceable. Even more troubling, if a state does not submit a plan, or their plan is not approved, EPA officials may create and enforce plans for states. This means that the EPA could not only assume the role of “enforcer,” but also might be able to require states to adopt these codes.

This government overreach does not align with the goal of the proposed rule – to regulate GHG emissions from power plants using section 111(d) of the Clean Air Act. Whether or not the Clean Air Act authorizes the federal government to regulate these plants in this manner has and will continue to be debated. However, if the proposed rule is finalized as proposed, it will allow for the federal regulation of individual home owners under the Clean Air Act. NAHB does not believe this was part of the legislative intent and should not be allowed in this rulemaking.

Under the proposed rule, EPA establishes four “building blocks” that states can use to meet the GHG emission reduction targets: 1–heat rate improvement; 2–shift to natural gas power plants; 3–renewable and nuclear energy; and 4–end-use energy efficiency. While energy efficiency incentives and demand side management programs can be a tool to help reduce energy use in the built environment, NAHB is most concerned with building block four because states unable to meet their GHG reduction targets through other means may use expensive energy codes or create other efficiency mandates for home owners. This will drive up the cost for new construction, pushing home buyers into less efficient older homes and slowing our housing recovery.

Why Energy Codes and Efficiency Mandates Should Not Be Used:

There are Major Problems with Measuring Compliance: The proposed rule also requires states to calculate and measure compliance. Calculating energy use in buildings can be very difficult, if not impossible. Developers have tried to obtain whole building energy use information (in multifamily structures) and have run into privacy issues and other laws and regulations that impede this calculation. In addition to the regulatory hurdles, the actual calculation presents its own problems. Building usage patterns, occupancy, hours of operation and weather are all factors to quantify when trying to compare actual energy use to that of a compliance target.

Energy Codes are Expensive and Drive Home Buyers into Older Buildings that Use More Energy: Early versions of the energy codes were more cost-effective because they included reasonable payback periods. Today, the codes include costly requirements that do not have the same return on investment.

NAHB polling shows that homeowners are willing to invest in energy efficiency, but expect a payback of 7 years or less. An average home built to the 2012 residential energy code, compared to the 2009 code, would add thousands of dollars to the cost of a new home, without providing a reasonable payback to the homeowner. The payback period for the 2012 code is between from 8.9 to 17.3 years. These codes are updated every three years and the costs for code compliance keep growing, which has in part led most states to not adopt the latest code. If this rule is finalized, as written, many states will have no option but to impose new energy codes to meet their targets. Energy efficiency is not free - this rule would force home owners to purchase expensive technology that will drive up costs for new homes. Many families will be forced into existing housing, which tends to use far more energy than new homes.

New Mandates Don't Always Result in Energy Savings: Adopting an energy code does not guarantee that a home will use less energy and result in reduced GHG emissions, as occupant behavior is a key factor in determining energy use. While a house may be designed and constructed to use less energy, home owners may leave their lights on, keep their home cooled to 65 degrees and otherwise use more energy than estimated. According to the Energy Information Administration (EIA), two-thirds of household electricity in 2009 can be attributed to the use of appliances, electronics and lighting, all of which are not impacted by building design. Government regulations that mandate market outcomes are not an effective tool for achieving energy efficiency. In practical terms, these rules simply increase construction costs (without reference to consumer demand), thereby reducing new home construction, and forcing buyers into older homes, which are less energy-efficient.

Policy Should Target Existing Buildings with Retrofit Incentives: According to the EIA, homes built between 2000 and 2009 make up less than 14% of the total site energy consumption. New homes continue to become more energy efficient, while older homes continue to drain energy resources. Government programs should be geared to helping home owners afford energy efficiency retrofits. Demand-side management programs can also encourage owners of existing homes to invest in efficiency. NAHB supports such voluntary programs.

Conclusion

This proposed rule, if finalized as written, will have a negative impact on the home building industry. Many states will have no choice but to adopt new energy codes and other energy efficiency mandates – all of which will be federally enforceable. These mandates will drive up the cost of a new home. For every \$1,000 increase in the price of a new home, 206,269 home buyers are priced out of the market. New construction will continue to stagnate and home buyers will be driven to purchase existing housing stock, which uses more energy and results in higher GHG emissions.

NAHB plans to file comments with the EPA on this issue. We believe that if this rule is finalized, it should not impose federally enforceable mandatory requirements on home owners. We look forward to working with you and hope to have the opportunity to further highlight our concerns in future hearings.

Thank you for your attention to this matter.