

September 22, 2016

The Honorable Fred Upton
Chairman
Committee on Energy & Commerce
U.S. House of Representatives

The Honorable Lisa Murkowski
Chairman
Committee on Energy & Natural Resources
U.S. Senate

The Honorable Frank Pallone
Ranking Member
Committee on Energy & Commerce
U.S. House of Representatives

The Honorable Maria Cantwell
Ranking Member
Committee on Energy & Natural Resources
U.S. Senate

Dear Conferees,

Our organizations represent a broad sector of the residential and commercial construction and real estate industry, including builders, developers, Realtors®, property managers, contractors, utilities and product manufacturers. We are writing to strongly urge you to include the House language on energy codes (H.R. 8), commonly referred to as “Blackburn/Schrader,” in the final energy package. This legislation would encourage meaningful energy savings for buildings by ensuring that new model building energy codes are achievable, technology-neutral and cost-effective.

The “Blackburn/Schrader” provision, included in H.R. 8, seeks to improve the process by which energy codes are developed. It increases transparency, requiring the Department of Energy (DOE) to publish all proposals/analysis, and strengthens DOE’s role as a technical advisor, but prohibits their lobbying activities. It also requires any code or proposal supported by DOE to have a simple payback (increased compliance costs should be paid back through utility savings) of 10 years or less. In contrast, the energy code language in the Senate energy bill, S. 2012, would continue to allow DOE to advocate for aggressive new requirements and calculate cost-effectiveness over the life of a building. As the next energy code is currently being written, it is critical to include the House reforms in the final Conference Report.

Some media reports and advocacy letters circulated to conferees have made inaccurate claims about H.R. 8 and S. 2012. We would like to address some of these claims directly:

Claim: Building codes add little cost to the construction of a home, but provide significant utility savings for the consumer.

- Energy codes are not “low-cost.” The 2012 residential energy code added, on average \$5,668 to the cost of a home, while only saving the home owner \$36 per month on utility bills. Similarly, the cost of construction for apartments increased as much as \$2,160 per unit. The costs are significant and impact affordability across the housing spectrum. In fact, for every \$1,000 increase in the price of a new home, 206,269 households can no longer qualify for a median-priced new home.

H.R. 8 aims to strike a balance between efficiency and affordability by promoting the development of updated energy codes, while also requiring any code or proposal supported by DOE to have a simple payback of 10 years or less.

Claim: *Building codes are not mandates and S. 2012 retains states' authority over energy code adoption.*

- States are required to adopt energy codes for commercial buildings. While states reserve the right to adopt the residential building energy codes, S. 2012 authorizes funds to provide incentives to states for adoption. Once a code is adopted by a state, it becomes a mandate for builders and home buyers. When federal funds are provided, states and localities are often quick to accept these terms without fully evaluating how it will impact housing affordability and economic development in their jurisdiction.

In contrast, H.R. 8 promotes the enforcement of and compliance with energy codes by providing needed assistance to states to train code officials

Claim: *S. 2012 clarifies the role of the Department of Energy as one of offering technical assistance.*

- While DOE used to serve as a technical advisor during code development, over the last few years, DOE has expanded its role beyond that of technical assistance and has advocated for aggressive and expensive new requirements. S. 2012 exacerbates this problem by authorizing DOE to establish energy savings targets for these codes that achieve the "maximum level of energy efficiency that is technologically feasible and life-cycle cost-effective." This establishes a goal that is unachievable for American families. Home owners do not own their home for the life of the building. Commercial leases are rarely more than ten years. These owners will never recoup the initial investment of efficiency. Additionally, this charge extends beyond technical assistance and runs counter to DOE's own research which identifies the significance of "initial costs" to various types of property owners.

H.R. 8 seeks to fix this by clarifying DOE's responsibilities in developing energy codes. First, it strengthens DOE's role as a "technical advisor," specifying the type of research and analysis needed from DOE, and it prohibits any type of "advocacy."

Claim: *H.R. 8 provides DOE with too much authority over the costs of building materials and sets a precedent of excessive federal intervention.*

- Nothing in H.R. 8 gives DOE the authority to set the price of building materials. The goal of H.R. 8 is to limit federal intervention. DOE currently conducts a cost/benefit analysis of each energy code and individual code proposals. H.R. 8 states that when DOE evaluates which proposals and codes to support, they should have a 10-year simple payback. S. 2012 allows DOE to determine cost over the life of the building, which could be as long as 100 years - too long for any building owner to recoup the initial investment.

Claim: *S. 2012 will advance the adoption of new technologies.*

- The energy codes are becoming more prescriptive, giving builders less flexibility in choosing building materials and technologies. Manufacturers have realized that they can achieve greater market share by requiring their products in energy codes. Energy codes should be technology-neutral and performance-based. By limiting DOE advocacy, and creating greater transparency, H.R. 8 attempts to prevent the selection of winners and losers in the code.

We strongly support the reforms in H.R. 8 and encourage you to include the “Blackburn/Schrader” language into the final Conference Report. The next version of the energy code is currently being developed and we need to ensure DOE acts in an open and transparent manner and that the new codes are cost-effective and attainable for American families and businesses. Failure to consider the true costs of energy-use reductions that would establish a reasonable payback period for these investments will exacerbate the shortage of affordable housing as well as increase compliance costs for commercial landlords and many of their tenants. Consumers deserve a reasonable return on their investment when it comes to required energy efficiency improvements.

Thank you and we look forward to working with you and other Members of the Conference to advance this important legislation.

Sincerely,

AGC Glass Company North America
American Gas Association
American Public Gas Association
American Wood Council
APA – the Engineered Wood Association
Coalition for Fair Energy Codes
Hearth, Patio & Barbecue Association
International Council of Shopping Centers
Leading Builders of America
National Apartment Association
National Association of Home Builders
National Association of Realtors®
National Electrical Contractors Association
National Leased Housing Association
National Lumber and Building Material Dealers Association
National Multifamily Housing Council
Pilkington
Window and Door Manufacturers Association

cc: Members of the Senate and House Energy Conference Committee