

National Community Action Foundation



October 2, 2006

AN OPEN LETTER TO THE ENVIRONMENTAL ENFORCEMENT COMMUNITY

Dear Ladies and Gentlemen:

We are writing on behalf of the National Community Action Foundation (“NCAF”)¹ and the Hearth, Patio & Barbecue Association (“HPBA”)² to alert you to an idea for a Supplemental Environmental Project (“SEP”) that is remarkably advantageous for all concerned.

The idea essentially is this: The defendant in an environmental enforcement action would donate wood stoves, or the money to purchase them, to a provider of Weatherization Assistance Program (“WAP”) services in a particular area, pursuant to a grant agreement. Then, using additional separate funds, the WAP provider would conduct a wood stove changeout program in low-income households, replacing old wood stoves with modern ones which burn much more cleanly and efficiently.

The balance of this letter describes in more detail: (1) wood stove changeout programs, (2) the capabilities and reach of local WAP agencies, (3) the key elements of our proposed SEP concept, (4) the advantages of that concept, and (5) resources for exploring the concept in greater depth.

¹ NCAF is a private, not-for-profit organization that serves as an advocate and lobbyist for low-income programs. Founded in 1981, NCAF represents Community Action Agencies (CAAs) and state and regional associations of CAAs. NCAF works closely with Members of Congress, federal and state agencies, the executive branch both in Washington, D.C. and the states, and with other public interest groups to maintain adequate funding for anti-poverty programs and to shape future social policy directions. For more information about NCAF, see its website at www.ncaf.org.

² HPBA is an international trade association first established in 1980 to represent and promote the interests of the hearth products industry in North America. In 2001, Hearth Products Association (HPA) merged with Barbecue Industry Association (BIA) to form HPBA. The Association includes manufacturers, retailers, distributors, manufacturers’ representatives, service and installation firms, and other companies and individuals - all having business interests in and related to the hearth, patio, and barbecue products industries. For more information about HPBA, see its website at www.hpba.org.

WOOD STOVE CHANGEOUT PROGRAMS

By the term “wood stove,” we mean a residential appliance that burns cordwood – *i.e.*, either a free-standing appliance or an appliance inserted into a fireplace.

Over the past 20 years, wood stove technology has advanced dramatically, so that current models burn much more cleanly and efficiently than the so-called “conventional” models that were on the market in the 1980s and earlier. A watershed event was the promulgation by the U.S. Environmental Protection Agency (“EPA”) pursuant to the Clean Air Act of a New Source Performance Standard (“NSPS”) for wood stoves in 1988. The NSPS relies on a program of certification of model lines.³ The NSPS does not apply, however, retrospectively, *i.e.*, to conventional wood stoves that were already on the market or in use at the time the NSPS was proposed. HPBA estimates that the number of such conventional wood stoves still in use nationwide, as opposed to EPA-certified wood stoves, is approximately 7.5 million.

It is widely recognized that the substitution (*i.e.*, “changeout”) of an EPA-certified wood stove for a conventional one results in a 70 percent reduction in fine particulates on average and similarly large reductions in hazardous air pollutants and methane, a potent greenhouse gas. Consequently, a changeout of the entire nationwide inventory of conventional wood stoves would produce a substantial reduction in atmospheric loadings of air pollutants. For instance, HPBA estimates that the reduction in fine particulates (PM_{2.5}) would be about 300,000 tons per year. Unfortunately, conventional wood stoves have indefinite operating lives, and homeowners have little need to change over to modern appliances.

Wood stove changeout programs are an answer to that problem. Indeed, EPA in recent years has been promoting them actively as an effective air pollution control measure.⁴ Such programs typically include the following ten components: (1) definition of the target community, (2) publicity and community outreach, (3) financial and possibly regulatory incentives, (4) application procedures, (5) on-site evaluations to determine which replacement appliance would be appropriate and to identify installation issues, (6) installation, (7) education about proper wood burning, (8) proper disposal of the old appliance, (9) quality control procedures, and (10) recordkeeping and reporting. A changeout program could offer not only a choice of EPA-certified wood stoves as replacement appliances, but also low-emitting pellet stoves or gas-fueled appliances.

HPBA has extensive experience with wood stove changeout programs. For example, when Crested Butte, a mountain community in Colorado, resolved some years ago to bring air quality into line with the then-existing National Ambient Air Quality Standard (“NAAQS”) for particulate matter by changing-out wood stoves, HPBA was instrumental in organizing and implementing a successful program to do that. More recently, HPBA has helped organize similar changeout programs in Libby, Montana; southwestern Pennsylvania; Sacramento,

³ See 53 Fed. Reg. 5873 (February 26, 1988) (codified at 40 CFR Part 60, Subpart AAA).

⁴ See, *e.g.*, <http://www.epa.gov/woodstoves/index.html>.

California; and the Great Lakes region. In 2003, HPBA received EPA's Clean Air Excellence Award for its work on the Great Lakes program. For the Libby project, the industry has contributed \$1.0 million in cash, in-kind donations, and services.

Finally, EPA has been actively supportive of using wood stove changeout programs as SEPS. EPA maintains a website detailing its policies on SEPS,⁵ and that website lists wood stove changeout programs as worthy candidates for SEPs. Moreover, in practice, EPA has accepted such programs as SEPs. A recent example is the \$245,000 wood stove changeout program required for low-income households by the Consent Agreement and Order issued by EPA Region 5 in *Degussa Engineered Carbons, LP*, Docket No. CAA-05-2004-0044 (January 18, 2006) (Region 5 Press Release No. 06-OPA015).

THE WEATHERIZATION ASSISTANCE LOCAL NETWORK

Approximately 900 local organizations are working today across the Nation to provide federally-funded weatherization assistance to low-income households by making energy efficiency improvements in the home. Most are community-based, not-for-profit corporations, and some are agencies of local or regional government. WAP providers have the experience and institutional capacity so as to position them ideally to serve as both project managers and partners in carrying out wood stove changeout programs.

First, those organizations routinely perform much the same tasks as make up wood stove changeout programs, for instance: (1) community outreach, (2) processing of applications, (3) on-site audits of homes, (4) identification and prioritization of potential upgrades, (5) contracting for and overseeing performance of the necessary work, (6) inspection of work performed, and (7) recordkeeping and reporting, all pursuant to their grant agreements and subject to state and federal government oversight. Indeed, they perform work in the homes of more than 100,000 families per year. As the central funding agency, the U.S. Department of Energy (DOE), observes: "As a result of this close contact with their clients, weatherization providers are also in a good position to provide other services that bridge the gap between federal, state, and community programs targeting low-income communities."⁶

In addition, WAP providers generally have not only valuable experience, but also the necessary institutional capacity to conduct wood stove changeout programs effectively. For instance, they typically have: (1) the necessary expertise on residential energy upgrades so as to be able either to perform the work themselves or supervise specialized, credentialed contractors; (2) a seasoned capacity to track expenditures and prepare periodic and final accountings; (3) a deep knowledge of the local community; and (4) down-to-earth communication skills.

⁵ <http://www.epa.gov/compliance/civil/seps/index.html>.

⁶ http://www.eere.energy.gov/weatherization/wx_network.html.

But, in addition to serving as project managers, most WAP providers also would be in a position to leverage a grant of wood stoves or a grant of cash-for-wood stoves by packaging the delivery of their Weatherization services with the installation of the new wood stoves. The program funding for WAP providers consists of grants from DOE's WAP via state agencies (\$242 million for FY2006) to provide weatherization services for low-income energy consumers. However, the rest of their organizations' funding comes from grants from other governmental and some private sources and support a wider array of community, family and housing-related services.

In some localities, WAP providers are in a position to identify and serve moderate-income households who are eligible for community programs and housing initiatives other than WAP. Further, some WAP providers could fund their services as project manager and installer for a wood stove changeout program out of other grants and programs available to them, although this capability is not the general rule.

According to EPA, the heating efficiency of a conventional wood stove is only approximately 40-60 percent, whereas the efficiency of a modern wood stove is 60-80 percent.⁷ Nevertheless, the current WAP design does not include many jobs that involve replacing a heating unit. While a wood stove changeout would improve the energy efficiency of a home substantially, the Weatherization program funding is limited to an average of about \$2,500-3,000 per household, and the installed wood stove itself would cost about that much, as would most new heating units of any type. Consequently, WAP providers typically give priority to weatherization measures other than heating system changeouts. While Weatherization does allow expenditures for health and safety reasons, including replacement of heating systems, those funds are extremely limited. However, in an arrangement where the wood stoves were donated or subsidized, the WAP provider could spend some of the WAP grant funds on the installation and inspection of a wood stove changeout, insulate the home, and still meet the program's strict cost tests.

In sum, the local WAP providers offer an ideal delivery system for a wood stove changeout SEP. They have the experience and capacity necessary to serve as project managers and to marshal independently the resources necessary to deliver the new wood stoves to low-income wood-heat users, assuming they separately receive a free, or largely free, supply of wood stoves.

KEY ELEMENTS OF A WAP-BASED, WOOD STOVE CHANGEOUT SEP

The SEP concept we are proposing includes the following key elements:

- The defendant in an environmental enforcement action would enter into a grant agreement with the WAP provider for the area relevant to the settlement. The agreement could be structured so as to serve as the project plan for the SEP. For instance, it might call for interim and final accountings showing successful progress and then completion of the SEP.

⁷ See [http://www.epa.gov/wood stoves/efficiently.html](http://www.epa.gov/wood%20stoves/efficiently.html).

- The defendant pursuant to the agreement would donate new, EPA-certified wood stoves (or cash for their purchase), and possibly cash for their installation, to the WAP provider.
- The WAP provider would conduct a program to replace older-model wood stoves with the new ones in low-income homes in the course of installing other energy efficiency measures.
- The WAP provider would generate the necessary accountings showing successful progress and completion of the SEP.

In effect, this would be a “turn-key” SEP. The defendant’s only major actions would be the signature of the grant agreement, the transfer of appliances and/or cash, and the performance oversight appropriate to a grantor.

Prototypes demonstrating that this sort of arrangement works well have arisen already. For instance, The Opportunity Council Inc. in the State of Washington⁸ was recently a recipient of precisely this sort of grant pursuant to a SEP. Also, the *Degussa* SEP mentioned above is being implemented in part by a local WAP provider.⁹

ADVANTAGES

As EPA has recognized, a wood stove changeout SEP of any sort offers many benefits, notably:

- A 70 percent reduction on average in fine particulates for each changeout;
- A substantial reduction in hazardous air pollutants;
- A net reduction in the global warming potential of emitted gases, mainly through more complete combustion of methane;
- A reduction in pollutants that contribute to visibility degradation;
- A net reduction in wasted energy and in usage of non-renewable energy resources; and
- Improved home safety, in that older wood stoves are often poorly vented or installed.

⁸ See <http://bpc.oppco.org/index.html>.

⁹ For more information about these two precedents, please contact John Crouch (HPBA) at 916-536-2390 or john.crouch.hpba@sbcglobal.net.

A wood stove changeout SEP would offer even more advantages if responsibility for administering it were delegated to local WAP providers. From EPA's standpoint, those advantages are:

- Maximum leveraging of each SEP dollar because of the separate funding a WAP provider could bring to its administration of the program;
- Minimal administrative expenses because of the experience and expertise of the WAP provider;
- High degree of reliability in the performance of tasks, such as screening, inspections, and installation, in that WAP providers have long track-records of successfully delivering energy-related home improvements; and
- High degree of accountability, in that WAP providers maintain detailed accounting systems as required by their many government and charitable funding sources.

From the defendant's standpoint, the advantages are:

- Also, a high degree of reliability and accountability for the performance of tasks;
- A minimum of time and expense to create and implement a program, in that the WAP provider would provide a "turn-key" operation, in which the defendant basically need supply only wood stoves and/or cash; and
- The WAP provider under the grant structure, as opposed to the grantor, would assume responsibility for safe and correct installation of the new wood stoves.

RESOURCES

HPBA stands ready to assist in the establishment of WAP-based wood stove SEPs. It is willing to consult on design, including providing a template for SEP language and grant agreements, and to help start up such SEPs. For general matters, please contact John Crouch, HPBA's Director of Public Affairs, at 916-536-2390 or john.crouch.hpba@sbcglobal.net. For legal matters, please contact Peter Wyckoff, HPBA's counsel, at 202-663-8856 or peter.wyckoff@pillsburylaw.com.

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Likewise, NCAF stands ready to assist in identifying local WAP providers and facilitating cooperation.¹⁰ Please contact Dr. Meg Power, NCAF's Senior Adviser, 202-842-2092 or megpower@ncaf.org.

We look forward to working with you, including answering any questions you might have.

Sincerely,

Jack Goldman
President, HPBA
1901 North Moore Street
Suite 600
Arlington, VA 22209-1728
TEL: (703) 522-0086 ext. 123

David Bradley
Executive Director, NCAF
810 First Street, NE
Suite 530
Washington, DC 20002
TEL: (202) 842-2092

Cc: John Crouch (HPBA)
Allan Cagnoli (HPBA)
Meg Power (NCAF)
Larry Brockman (EPA)
Peter Wyckoff (PWSP)
David Menotti (PWSP)

¹⁰ NCAF wishes to clarify that the decision as to whether or not to enter into an agreement with a defendant would be solely the local WAP provider's, and not NCAF's. All grant agreements would be between the defendant, the individual WAP provider, and perhaps others, but not NCAF. NCAF would not be responsible for any aspect of the agreement, the services, or the goods provided under the agreement, and does not promise to carry out any aspect of the sort of SEP agreement contemplated by this letter.