June 10, 2016

The Honorable Fred Upton     The Honorable Lisa Murkowski
Chairman                      Chair
House Committee on Energy and Commerce Resources
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Frank Pallone     The Honorable Maria Cantwell
Ranking Member                Ranking Member
House Committee on Energy and Commerce Resources
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairmen Upton and Murkowski, and Ranking Members Pallone and Cantwell:

The United States Congress has recently convened a conference committee to conclude business on comprehensive energy efficiency legislation for the 114th Congress. Since you have been appointed to the committee, the Window and Door Manufacturers Association (WDMA) urges you to include and protect important language on model energy building codes defining the Department of Energy’s (DOE) role in the code development process. Specifically, WDMA strongly supports the building code language passed by the House of Representatives in their comprehensive energy efficiency bill, H.R. 8.

WDMA is a national trade association representing the leading producers of residential and commercial doors, windows, and skylights for domestic and export markets. Our members sell to distributors, dealers, builders, remodelers, homeowners, architects, contractors, and other specifiers in the residential, commercial, and institutional construction markets. Our members’ critical role in the built environment necessitates WDMA participation in the code development process, and we support common-sense provisions to ensure building codes are cost effective, transparent in their development, and reasonably practical.

Model building energy codes are used by state and local jurisdictions across the country to establish baseline requirements for building energy efficiency. While the DOE does not write these codes, it can be an effective participant in their development, such as providing technical assistance to analyze energy savings. Over the last few years, however, DOE has increasingly advocated for an aggressive prescriptive approach that has resulted in expensive requirements and a national model energy code that is less flexible, very costly and unusable for many states.
Last year, Reps. Marsha Blackburn (R-TN) and Kurt Schrader (D-OR) introduced H.R. 1273, the Energy Savings and Building Efficiency Act of 2015, which amends the Energy Conservation and Production Act to revise provisions regarding DOE’s participation in the development of model energy codes for residential and commercial buildings and the technical assistance the Department provides to states, Indian tribes, local governments, or model organizations with respect to them. Colloquially known as “Blackburn/Schrader”, this bill was included in the House of Representatives’ bill, H.R. 8, the North American Energy Security and Infrastructure Act of 2015. The Senate’s bill, S. 2012, the Energy Policy Modernization Act, did not include this language, and instead passed with alternative code language.

The “Blackburn/Schrader” provision seeks to improve the process by which these codes are developed by:

- **Increasing Transparency:** Requires DOE to publish energy savings targets, code change proposals and all supporting analysis and methodology in the Federal Register and accept public comment;

- **Ensuring Product and Technology Neutrality:** Strengthens DOE’s role as a neutral, technical advisor, but prohibits DOE from advocating for certain products/technologies; and

- **Promoting Cost-Effectiveness:** 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. The average homeowner stays in their home for 7 to 10 years and should have some expectation of recouping the added costs.

During the ongoing debate over the provisions contained in each chambers’ respective bills, this code language has proven to be among the most contentious. Unfortunately, many statements have been made by certain interests claiming Blackburn/Schrader will undermine DOE’s ability to participate in the code development process and impede development and adoption of efficient energy codes. WDMA maintains those claims are inaccurate and should be corrected at this pivotal time in the legislative process.

**Blackburn/Schrader Strengthens DOE’s Participation in Model Building Code Development**

WDMA supports DOE participation in the process to update model energy building codes and we feel that their participation is key to ensuring that important technical expertise is available. Blackburn/Schrader makes it explicitly clear that DOE can participate in the development process and can analyze ALL proposals, even those that are not cost-effective. Section 304 of Chapter 4 contained in H.R. 8 specifically details DOE’s participation, as cited below:
“SEC. 304. UPDATING STATE BUILDING ENERGY EFFICIENCY CODES.

(a) In General.—The Secretary shall provide technical assistance, as described in subsection (e), for the purposes of—

(1) implementation of building energy codes by States, Indian tribes, and, as appropriate, by local governments, that are technically feasible and cost-effective; and

(2) supporting full compliance with the State, tribal, and local codes.\(^1\)

As a government agency and representative of all U.S. citizens, DOE has a responsibility to act in a non-partisan manner and refrain from advocating for energy code requirements that are not demonstrably cost-effective or biased in terms products, materials and technologies they promote.

DOE’s participation in the code change process and support of energy code adoption should be open, transparent, product and technology neutral and consider costs. Blackburn/Schrader ensures DOE cannot apply undue influence in that regard. The language simply requires DOE to publish all proposals, methodologies and supporting materials in the Federal Register for public review and accept public comment. That is not an unreasonable request for DOE’s participation in the development of model energy codes that become law when they are the adopted by state and local jurisdictions.

**Payback Requirement Encourages Greater Efficiency**

In previous years, consumers were getting significant savings in energy, largely due to cost-effective and practical code requirements. Today, codes include costly requirements that do not always give the consumer a reasonable return on their investment. This discourages their purchase of more energy-efficient technology and hinders the popular goal of greater efficiency.

During recent energy code amendment cycles, the public saw DOE take on a more aggressive advocacy role in the process, particularly with code change proposals that increase the cost of construction without giving home buyers a reasonable return on their investment. DOE’s activities, therefore, have contributed to making housing less affordable, particularly for low-income families. Blackburn/Schrader therefore also ensures that any proposal supported by DOE has a 10-year simple payback. This payback requirement ensures DOE’s code change proposals are more reasonably cost effective. Once again, the payback requirement does not hinder DOE from participating in the process and the language actually encourages their role as a technical advisor.

Blackburn/Schrader Does Not Impede Development or Adoption of Highly Efficient Energy Codes

Finally, the Blackburn/Schrader language contains many of the same provisions in the Senate bill, S. 2012, intended to more rapidly advance energy efficiency of all new homes and buildings, such as allowing DOE to set the energy savings targets for state energy codes.

In addition, under Section 304, states must report to DOE as to what energy code they have currently adopted and how they are moving toward compliance with DOE targets within 3 years of the publication of a model energy code. In this regard, Blackburn/Schrader merely provides a safeguard for states that choose to adopt residential codes other than the national model code. In addition, this section specifically prescribes DOE support for code enforcement officials for implementation and enforcement, which is as important as the requirements themselves. It does not diminish DOE’s role in establishing targets for state energy codes nor in anyway impede the development of highly efficient energy codes or the adoption of them. Encouraging a more workable energy code will result in more states adopting the most recent version of it and thus a more rapid improvement in energy efficiency nationally.

Conclusion

Consumers deserve a reasonable return on their investment when it comes to required energy efficiency improvements in energy codes. 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. The high cost of meeting unreasonable baseline requirements may also serve as a disincentive for “green building” practices that encourage – and often require – investments above the baseline code.

In considering provisions for DOE’s participation in code development and adoption during the conference committee, please protect the integrity of the code development process and ensure DOE’s participation is appropriate given their unique status as a government agency and representative of the United States taxpayer. WDMA urges you to include and protect the building code language passed by the House of Representatives in H.R. 8, the North American Energy Security and Infrastructure Act of 2015.

Thank you for your consideration of this important matter. Please contact Kevin McKenney at 202-367-2480 or kmckenney@wdma.com with questions or concerns.

Sincerely,

Michael O’Brien, CAE
President & CEO
Window and Door Manufacturers Association