



NATIONAL ASSOCIATION OF REALTORS®

The Voice For Real Estate®

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July 10, 2010

U. S. Department of Energy
Office of Energy Efficiency and Renewable Energy (EE-1)
1000 Independence Avenue, S.W.
Washington, DC 20585
Attn: National Energy Rating Program for Homes, Jessica Balsam

To whom it may concern:

On behalf of the 1.1 million members of the National Association of REALTORS® (NAR), I am writing in response to the recent Request For Information published in the *Federal Register* on a proposed National Energy Rating Program for Homes.

On October 19, 2009, Vice-President Biden announced the development of a major federal government initiative, the Recovery Through Retrofit program. This program seeks to create a national home energy retrofit market by providing: (1) access to home energy retrofit information; (2) access to home energy retrofit financing methods; and (3) access to a trained home energy retrofit workforce.

NAR strongly supports providing property owners with the education, incentives and resources they need to voluntarily improve their homes and save energy. NAR appreciates the emphasis on the voluntary nature of the program and that the Department of Energy (DOE) is issuing this request for information on the various aspects of a program at an early stage in its development process. However, the Federal Register notice description of the program was often vague and confusing at times. It was difficult to provide fully informed feedback when critical details are omitted and the comment period is so short. NAR is very concerned that this proposal intends to use the home buying process as the vehicle to incorporate the labeling of homes, but the DOE failed to address this possibility in the notice. NAR strongly opposes the concept of point-of-sale trigger for this information. If the goal is energy efficient homes and buildings, the most effective approach would be to provide the financial resources and incentives that educate and empower property owners to make needed energy improvements.

Utilizing unreliable home rating systems will not lead to home energy use reductions. When buyers hold all the cards at the closing table and too many homeowners have no savings to finance energy improvements, transaction-based triggers only serve to send conflicting market signals – without any assurances that needed energy improvements will be made.

Attached are additional comments and perspectives on the Request for Information regarding the proposed National Energy Rating Program for Homes. If you have questions regarding these comments, please contact Russell W. Riggs, Senior Regulatory Representative, 202-383-1259 or via e-mail at riggs@realtors.org.

Sincerely,

Vicki Cox Golder, CRB
2010 President, National Association of REALTORS®

COMMENTS ON THE NATIONAL ENERGY RATING PROGRAM FOR HOMES

NAR Supports the General Goals of the National Energy Rating Program for Homes

As described in the Federal Register Request for Information, the primary goal of the National Energy Rating Program for Homes (the Program) is to spur home energy improvements or retrofits. NAR supports providing consumers with meaningful and reliable information about building energy efficiency if they are interested in the information and it will help them to improve the energy efficiency of their home. NAR also appreciates the emphasis that DOE places on the voluntary nature of the program.

While NAR supports reasonable approaches and incentives to advance consumer information about reducing their energy use, right now our membership questions whether the information DOE is proposing to provide would help interested consumers improve the energy efficiency of real estate. This information has the potential to fundamentally change real estate transactions. However, any information provided must be meaningful, reliable and not convey a false sense of precision about something as complicated, diverse and variable as the energy use of real property. Whatever information the Department provides, our membership is in a unique position to advance the goals of the program. It is in the Department's interest to work with real estate professionals who understand what kinds of information consumers want and find useful. If the information is not accurate, reliable or characterized appropriately, it could be misused in the home selling/buying process which does not serve a public purpose and is contrary to the stated goals of this program.

NAR applauds the DOE for publishing a request for information on the program at an early stage. However, the comment period did not offer us sufficient time to conduct necessary research or fully seek the feedback of our membership that could have greatly informed the proposal. The description of the program was often vague and confusing at times with critical details omitted. For example, NAR is very concerned that DOE did not address whether this proposal could use the home buying process as the vehicle to mandate energy use labeling of homes. NAR strongly opposes this concept. If the goal is energy efficient homes and buildings, the most effective new programs would provide the financial resources and incentives that educate and empower property owners to make needed energy improvements. Triggering requirements at the time of sale will not lead to energy saving behavior. Transaction-based triggers only drive down home values – without any assurances that needed energy improvements will be made.

Labeling every structure in America will not, in and of itself, improve the energy efficiency of homes or buildings. Owners must act on the information by taking the next steps and making energy-related improvements such as replacing aging heating and cooling systems, appliances and windows.

However, many homeowners have seen their financial well-being shaken in the past five years. Jobs and tenants have been lost, savings have eroded and property values have plummeted. Without savings or equity, many lack the financial resources to make the energy improvements they already know they need to make. Energy labels stigmatize older properties and make it harder for these individuals to build equity. Labels also reduce sales prices when sellers are forced into negotiated price reductions in order to compete in today's very competitive buyer's market.

According to data collected by the American Housing Survey (AHS) and analyzed by NAR, labeling real estate will create disproportional impacts on owners of older properties. More than 60% of U.S. homes were built prior to 1980 when the first building energy codes were established, and face relatively larger losses in property value due to building labels. These properties will require more improvements than newer properties in order to match labeling scores and maintain their value.

According to the AHS data, a large share of these older properties are also owned and occupied by populations which tend to live on modest or fixed incomes, and are least able to afford these improvements

without significant financial assistance. These populations include 73% of elderly, 69% of impoverished and 64% of Hispanic and black owners.

Labels will not only stigmatize older homes but the community where they are located, and which are struggling to maintain and attract investment. There will also be regional disparities: the Northeastern United States, where older homes are concentrated, could fare worse than the South and West. Rural communities could be especially hard hit, as a substantial proportion of homes in those areas were built prior to 1980.

Before branding homes and buildings with labels, consumers require a better understanding of energy efficiency and the tools to turn information into action. NAR supports:

- A. Raising public awareness about energy efficiency programs and information.
- B. Encouraging the federal government and the states to provide financial incentives to consumers to improve homes and buildings.

By developing the infrastructure and education, and providing the right incentives, property owners will make the energy improvements that will achieve the energy savings needed.

Key Elements of the National Energy Rating Program for Homes

The Request for Information describes the Program's Guiding Principles and the key elements that would guide the implementation and operation of the Program. NAR's comments and concerns with these specific components of the proposed program are described below:

1. The Basic Performance Metric

DOE is proposing to provide for each home its annual source energy consumption as the primary performance metric (adjusted for square footage and climate zone) and use a national conversion factor to convert site electricity use to source energy consumed.

The "source energy" metric is defined as all the energy used in delivering energy to a site, including power generation, transmission and distribution losses, to perform a specific function, such as space conditioning, lighting or water heating.

NAR Comments: For the general public, the discussion in this section is particularly vague and difficult to follow. It was not clear exactly what metric the DOE envisioned using (BTUs?). The distinction between "source" and "site" energy is confusing and probably not clear to many. When focusing on a home's energy profile, consumers are not thinking about the total energy it takes "upstream" for all the different energy providers to supply the home; they are interested in energy use at the site of the home.

While the DOE states that measuring home energy consumption could be a more accurate measure, this is a more difficult unit of measurement for the average consumer to understand. Cost estimates, by comparison, would be easier to grasp, although we do appreciate the complexities and difficulties in adjusting for a range of real-world factors. We agree that greenhouse gas information should not be the primary program metric. In our membership's experience, very few – if any – consumers request or are interested in that information.

2. Ratings

According to the DOE, the specification of the rating method is critical for an effective home energy performance program. An "asset" rating approach reflects a home's energy performance based on the home's physical characteristics, using a set of standard operating assumptions. An "operational" rating method is based on the actual energy use of a home's current occupants and is often calculated by looking at energy data from utility bills.

DOE proposes to utilize an asset rating that would result from using a prescribed set of data, data collection methods, and calculations. The DOE is undertaking additional work to develop specific data, collection methods and calculations, as well as developing adjustments for home size and climate.

NAR Comments: The section explains operational versus asset ratings but then introduces concepts of efficiency versus consumption ratings without relating back. While we would agree that an “operational” or combined asset/operational rating would not provide reliable, replicable, transparent or verifiable data and should not be used, “asset” ratings pose similar challenges.

Recently, Earth Advantage evaluated the EPS asset rating and found that the most accurate predictions were still off by 25 MBtu (or 25% of the average of 101 MBtu). And half the homes sampled had a prediction off by more than 25 MBtu. (“Energy Performance Score Report,” prepared for the Energy Trust of Oregon by the Earth Advantage Institute and Conservation Services Group, August 2009.) In the same report, Earth Advantage cited a 2002 study by Pigg, S. of the ENERGY STAR® Homes Program that found similar absolute errors associated with the Home Energy Rating System (HERS) software.

Past experience with other energy rating systems of existing homes has demonstrated real concerns about the expense, efficacy and reliability of these systems. For example, according the EPA’s Energy Star program, the cost of the rating to the homeowner can range from \$200 to \$800 per home just for new construction, depending on the region, the type and size of the home, and individual market dynamics. The cost for existing home ratings can be significantly higher.

In addition, existing home energy ratings rely on unregulated third-party training, administration and oversight. This has already caused problems in Austin, TX, which recently mandated energy efficiency audits before a home over ten years old can be sold, and in California, where some municipalities require home energy audits prior to sale. In Toronto, Canada, home energy audits mandates were considered and rejected after news reports described situations where different auditing firms arrived at wide ranging energy ratings scores and recommended very different, but all very pricey, efficiency retrofits. Often the home energy rater is also the one making the home improvements, which raises significant questions about conflicts of interest.

An asset rating, as DOE is proposing, does not take into account one of the most critical factors of energy use in a home – how energy is used by the home’s occupants. The characteristics of the home’s occupant and their energy use behavior can have a significant impact – all other factors being equal, a family with four small children will have a very different home energy use profile than a single person. The asset rating approach does not take these factors into account, and as a result will provide an accurate assessment of the energy use in a home.

3. Scales and Reference Points

The scales and reference points component refer to ways to help the consumer and home owner understand home energy performance, how one home’s energy use compares to another home’s, and opportunities that may exist within the home to improve those ratings. According to the DOE, understanding how a home compares to others – particularly homes in the same general area – has been identified as information that can help motivate consumers to make changes.

As an initial approach, the DOE intends to use an absolute numeric scale without converting to a point scale, complemented with key comparisons/benchmarks, such as:

- The home’s energy performance with improvements;
- A national average home of similar size; or

- A new home in the state or locality

NAR Comments: Experience has shown that expensive and unreliable measuring tools, wielded by untrained and unqualified auditors, drives up the costs of conducting these audits and retrofitting the home, and sends conflicting price signals to the real estate market. NAR is deeply skeptical that there is a one-size-fits-all numerical rating system that would accurately capture the variability in energy performance across the diversity of homes and urges the Administration to discard a numerical based approach. We agree that a bin approach requires a level of precision that is not achievable at this point. A 100-point numerical scale also implies a level of precision that is false and could mislead consumers: what exactly is the difference between a ratings score of “75” versus “76”? Are the ratings tools refined enough to detect a meaningful 1-point difference between homes?

According to Realtors®, most consumers who make the decision to retrofit are not doing so based on how their home stacks up against their neighbor’s. “Keeping up with the Jones” is not the basis for sound public policy. What motivates consumers is how their home would compare before versus after the retrofit. This is particularly important as the Congress is considering several proposals that would base the amount of rebate or another financial incentive on the percentage improvement in a home’s energy performance as a result of retrofitting. Comparing home energy performance across homes, and not just a “before/after” retrofit comparison of a single home, poses significant concerns to the real estate industry. Comparisons of home energy performance among different homes would penalize and stigmatize certain kinds of homes, and provide other kinds of homes with an artificial competitive advantage. For example, older housing stock in urban areas in the Northeast would not measure up to the energy efficiency performance of a new home in the West, without expensive and extensive energy efficiency retrofits. The goal should be a level playing field, but home-to-home comparisons just make things worse.

4. Recommendations for Energy Efficiency Improvements

The DOE intends to develop a standardized, consistent system to estimate potential energy savings from home improvements and a list of recommendations.

NAR Comments: This is redundant. There are numerous options in the private sector (namely utilities) for homeowners to receive this information. Most homeowners are probably already aware that adding insulation, duct sealing, replacing filters, and installing low-energy light bulbs or a programmable thermostat are among the more cost-effective ways to save on energy bills. However, to the extent that some would be interested in having annual savings estimates associated with such improvements to a typical home, we would support providing that information in lieu of providing numerical ratings of one home with another which will only stigmatize older homes without assuring energy improvements to homes.

5. Presenting Information to the Consumer

The DOE is exploring options for presenting information on a home’s energy performance and opportunities for energy savings. The DOE will test different ways of presenting information in a simple, straightforward way to consumers.

NAR Comments: How DOE presents home energy performance information could be the single most important factor that determines the success or failure of this program. However, in the notice, the Department merely states that it is exploring options for presenting that information and offers two examples in an appendix. As stated, “[t]his information must be presented in a simple enough form for consumers to readily understand,” yet there is no discussion of the various approaches the Department could take to present the information. Rather than making a commitment to test different formats, DOE could have used the opportunity of a Federal Register request for information to provide those formats

and request public comment on which ones were the most simple, straightforward and easy to understand. There was no indication if the information will be provided electronically or as a certificate or label to be affixed to a window or furnace.

NAR is strongly opposed to development or public disclosure of a label that could be used to stigmatize older homes or reduce property values at the time of sale. This concerns Realtors® because of the many questions the label would present to homeowners, home buyers and consumers.

First, how would this label be displayed? Would it be included in the mortgage documents or would it be affixed somehow in the home? Would this label, or the information it includes, be disclosed to a potential buyer, and at what point would this disclosure occur? All of these issues regarding a label and the information it contains have implications for the owner and the value of the property. NAR does not want good intentions on the part of the homeowner to hurt the value of their home or their equity stake in the home.

6. National Home Energy Registry

The DOE intends to establish a voluntary national home energy registry that would likely have a public dimension accessible to anyone and a private dimension accessible only to the homeowner or program that provided the information. Certain general information would be required for those homes that participate in the program. According to the DOE, the information collected and analyzed for this registry would be kept confidential and would only be provided in aggregate form to minimize use of personal information.

NAR Comments: A national home energy registry poses great concerns to NAR because of the privacy concerns that could arise. How will DOE ensure that any information that is collected on the energy performance of an individual home will be kept confidential? It must be kept in mind by the DOE that a home is most people's largest financial investment, and any information related to the performance of that property could have dramatic and negative impacts on the value of the home. If the home performs poorly on home energy usage and the information is somehow made public, this could destroy the value of the home and the owner could be harmed financially. NAR would recommend that this registry idea is dropped from the program, and the DOE begins to evaluate other ways to collect this kind of information.

7. Quality Assurance

The DOE states it will develop systems that will ensure that the information provided under the Program is accurate, reliable and consistently generated. Quality assurance requirements would be developed for contractors conducting the audits and assessments, the home energy performance audit tool and third party verification systems.

NAR Comments: The Administration should proceed carefully when developing a national set of guidelines and standards that address uniform certification and training for workers entering this new green jobs market. While NAR recognizes the need to ensure reliability for this work, too many standards and training criteria will stifle entrepreneurial job creation and hinder the ability of small businesses to respond to rising retrofit demand. If one cliché bears repeating, it is the trope that "one size" guidelines coming from inside the Beltway generally do not fit all the varying markets across the country. The Administration must strike a careful balance between creating a consistent set of guidelines that will increase consumer confidence and promote a stable and reliable national home retrofit workplace on one hand, and ensuring that local businesses are not hindered in their market responses to demand for this work on the other.

Conclusion – NAR Seeks a Win-Win Scenario

As Realtors® respond to growing consumer demand for green housing, NAR policy supports a voluntary, incentive-based approach to energy efficiency retrofits of existing housing. Such an approach would sustain the current green trends, and make them a more permanent feature in the marketplace. This, in the view of Realtors®, provides a “win-win” scenario by allowing for vigorous economic growth while improving the environment.

The Federal government provides important public research, capital and economic incentives, such as the current tax credit for energy efficient home improvements which spurs demand and interest. However, NAR believes that government should be limited to this role: leading the way with green Federal buildings, providing for research that spurs innovation and most importantly, keeping the market fluid and free of mandates, and encouraging robust consumer education programs.

NAR members have shown that green buildings are both proactive and profitable, primarily because current programs have allowed the market to respond to specific conservation needs in a geographic and market area. NAR supports a national green building and home energy efficiency retrofit program that is flexible and market-driven; encourages continued growth in green construction that protects options for consumers in all markets; and preserves, protects, and promotes the health of our environment.

NAR appreciates the opportunity to provide our perspectives on the Recovery Through Retrofit National Energy Rating Program for Homes initiative. If you have questions regarding these comments, please contact Russell W. Riggs, Senior Regulatory Representative, at 202-383-1259 or rriggs@realtors.org.