



March 31, 2011

NYSERDA
17 Columbia Circle
Albany, N.Y. 12203-6399

RE: Comments to NYSERDA regarding the draft Technology and Market Development Portfolio (March 18, 2011)

Northeast Energy Efficiency Partnerships (NEEP) appreciates the opportunity to comment¹ on some of the questions posed by NYSERDA in its draft Technology and Market Development Portfolio that was released on March 18, 2011.

As NEEP has stated previously, we are quite pleased to see the vision NYSERDA has laid out for Technology and Market Development as part of the Systems Benefit Charge IV review proceedings. We wholeheartedly endorse NYSERDA's view of how such initiatives can and should complement and interact with those programs being offered as part of the state's Energy Efficiency Portfolio Standard (EEPS). The majority of these comments are in relation to the section on "Advanced Energy Codes and Standards," as NEEP has spent significant time and attention on these topics over the last several years. We also respectfully submit two other recommendations with regard to complementary public policies that are addressed in other portions of the draft proposal, and will go into further details on these below.

Advanced Energy Codes and Standards

We are very encouraged to see NYSERDA propose the Advanced Energy Codes and Standards Initiative and provide the necessary funds to effectively implement such an effort. NEEP has been involved in promoting building energy codes and appliance standards for over a decade and currently manages Regional Projects that work to advance the energy efficiency savings opportunities that are available through these mechanisms. At last fall's Workshop, "[Roadmap to Claiming Savings from Building Energy Codes and Appliance Standards](#)" hosted by NEEP's EM&V Forum, several presentations highlighted the significant energy savings opportunities associated with building energy codes and appliance standards, and laid out the issues involved with how ratepayer funded efficiency programs in the various Northeast states can become more active participants in these efforts, and how they can be allowed to claim the savings from them. Instead of incentive programs which may affect only portions of the market, policies such as codes and standards all new building construction and major renovation, as well as specified consumer products. We see this proposal as a major step towards New York realizing many of those available savings.

We will first address the "Issues to consider" which followed the description of the proposed initiative.

1. What is the best balance amongst activities in this area?

We generally support the proposed balance in funding for the three main areas; 50 percent for training/education, 30 percent for technical support and pilots, and 20 percent for compliance assessments. New York, with the support of funding the state has received through the American Recovery and Reinvestment Act (ARRA), has established an effective training program that reaches actors across the building sector. It makes sense to build on an existing, effective

¹ These comments are submitted by NEEP staff and do not necessarily reflect the views of NEEP's Board of Directors, sponsors or other funders.



program in order to achieve the 90 percent energy code compliance rate that the state committed to as a condition of receiving those ARRA funds.

As far as the emphasis in the area of technical support, we suggest that these resources be made available equally between building energy code analysis and the work needed to analyze opportunities associated with appliance standards. While the training/education and compliance assessment pieces are largely focused on the energy savings associated with new buildings, there may be similarly significant savings associated with improvements to federal appliance standards and the identification/adoption of state level standards.

2. What is the best strategy for coordination with DOS and local entities?

We encourage NYSERDA to work collaboratively with the Department of State (DOS) as they implement the strategies that are included in the final plan. The DOS has been intimately involved in managing the training offerings that were implemented as part of the ARRA funding. DOS is a logical partner in not only developing the next generation of training and education, but also in providing their network of local code officials in order to effectively disseminate information about the new opportunities.

Timely cooperation between NYSERDA and DOS has been challenging in recent history, primarily due to funding challenges, as well as regulatory approval needed to dedicate NYSERDA resources to these efforts. NEEP believes that dedicated funding will define clear objectives and provide the needed resources to address those objectives.

3. How can best practices be disseminated throughout NYS?

It will be incumbent on this initiative to broadcast best practices through the established/appropriate channels. As mentioned above, DOS will be a valuable partner due to their existing network of local code officials. Further, NYSERDA should be allowed to be an active participant in education and outreach activities conducted in partnership with the DOS, including, but not limited to, regular and ongoing trainings and conferences on building energy codes that reach all market actors, including local building officials, but also architects, engineers and building contractors.

4. How can we monitor and assess the energy impacts of this technical assistance?

NYSERDA should be able to, with DOS involvement, monitor changes in code compliance associated with this technical assistance. Moreover, NYSERDA should be allowed by the Public Service Commission to claim a portion of the energy savings associated with any improvements in compliance.

Likewise, NYSERDA should be allowed to claim a portion of energy savings associated with the development and adoption of the latest model energy code, as developed in a consensus process through the International Code Council (ICC) and referenced as the Energy Conservation Construction Code of New York State.

With regard to appliance standards, NEEP also suggests that NYSERDA be allowed to claim a portion of energy savings achieved through the federal rulemaking process to set new appliance efficiency standards. Consistent with this recommendation, NEEP also suggests that NYSERDA be allowed to claim a portion of energy savings from state level appliance standards adopted



after being identified through analysis that NYSERDA could undertake, in cooperation with the Department of State.

Lastly, we would encourage NYSERDA to continue to participate in the efforts being led by NEEP to develop activities and related methods for evaluating and attributing savings from activities involving building energy codes and appliance efficiency standards.

Beyond the identified issues to consider, we would like to offer a few additional comments/observations in the area of Advanced Energy Codes and Standards:

- Annual Statewide Compliance Assessments - It is impossible to develop a strategy for improved energy savings through building energy codes without the regular tracking of compliance with those codes. Not only will compliance assessments help quantify the available opportunities, but can also identify specific areas of buildings (such as insulation, windows, HVAC systems, etc.) that are most often failing to meet code. Assessments can also show where the code has been misapplied or misinterpreted.

Compliance with appliance standards is necessarily a different issue, as it is largely self-policed by the industry players. We would therefore suggest that these efforts are secondary to code assessments.

- Development and Delivery of Advanced Training and Tools - There can be a significant learning curve associated with new building energy codes, making training and education, tailored for each of the various actors of energy code compliance, valuable tools in minimizing the inevitable transition periods.

Code trainings provided to the building trades, inspectors, etc. have proven to be a necessity in ensuring code compliance. Coupled with these, "beyond code" trainings can also help prepare the market for the next generation of building codes.

It is also important to provide a suite of training formats to these educational efforts, and to continue to develop these tools to stay current with developments in building science and practices. Builder field guides are one resource that we see as vital to this effort. As these guides can be costly, most states choose not to dedicate their resources to developing them. While a number of building energy code advocates, including NEEP, have requested that these guides be developed by the U.S. Department of Energy, we do not have any indication that such a request can or would be honored in the near term. Ideally, such guides should be developed on a basis that allows them to be customized for each state.

- Technical Support, Studies, and Resources - Analytical capabilities are essential to build the case for more stringent codes and standards. These capabilities need to be both reactive, and proactive. As new proposed codes or appliance standards are developed, it is incumbent on New York to conduct careful analysis to ensure that the codes/standards meet certain cost effectiveness screening for New York's particular climate.

These resources could also be utilized to conduct proactive research to discover what specific areas of the code or specific products would make the best candidates for code improvements or for new state-based appliance standards.



In the cases that products are indentified as potential standard candidates through this analysis, technical capabilities should be made available to develop actual specification levels. These levels could then be made available as suggested legislation.

As had been briefly referenced above, opportunities abound at the federal level to influence the adoption of both building codes and appliance standards, but probably more so for standards. Technical advocacy can impact the final rules which have direct impacts on the products sold in New York. Fortunately, DOE has shown a recent receptiveness to input that is technically informed.

We also strongly suggest that NYSERDA look to groups like NEEP or our partners at the Appliance Standards Awareness Project (ASAP) to help identify target products at federal level for NYSERDA involvement.

In relation, to effectively influence the development processes for national model energy codes and federal appliance standards, stakeholders must attend various meetings/workshops in person. Funding such travel may make the difference between a strong outcome and a weak one, thus we would urge that such expenses be allowed and included as part of NYSERDA's codes and standards activities.

Lastly, In terms of building energy code research, in order to inform the direction of future code revisions, we support the exploration/ evaluation of/development of code-like instruments that would require integration of renewable technologies or building commissioning.

- Pilots and Expanded Implementation Assistance - Although this proposal correctly identifies a suite of short term strategies to adopt strong energy codes/appliance standards, taking a fresh look at innovative implementation models, enforcement mechanisms, stretch code adoption, etc. may unlock new methods to achieve these energy savings at lower costs versus business as usual.
- Stakeholder Advisory Process - Lastly, NEEP would support the concept of a Code Support Advisory Group to bring together all stakeholders involved with the housing market to help implement the strategies areas identified in this proposal.

Market Development

In the section on Market Development, NYSERDA asks the specific question: "How can owner/tenant arrangements that inhibit energy savings operations and projects be addressed?"

NEEP would suggest that the best avenue for addressing such "split incentives" is for public policies that mitigate this inhibition to energy savings in such buildings.

Updated and enforced *building energy codes* can help mitigate the split incentive between owner/tenant by making new buildings as energy efficient as they can be, and also by creating similar energy efficiency improvements as buildings are renovated.

Similarly, *appliance efficiency standards* can require that equipment included as part of a rental arrangement, or equipment common or central to a building's operations (i.e., HVAC equipment) is made as energy efficient as possible as a matter of law. Likewise, when equipment is changed out due



to failure or general replacement strategies (lighting, refrigerators, cooking equipment, etc.), such standards can serve the same purpose.

However, since building energy codes can only address new construction or substantial renovation, we would also recommend that New York pursue a policy of *rating the energy performance of residential and commercial homes and buildings, and requiring that such performance be disclosed to consumers* at the time of sale or lease of properties. This information can help markets better value energy efficiency in the built environment, and, specifically, provide options for tenants who don't have control over a particular building or the systems/equipment included in it.

Whole Building Lower-Income Initiative

In the section on Whole Building Lower-Income Initiative, NYSERDA asks the question, in relation to programs to serve oil/propane heat customers: "Is there a better or additional funding source for this work?" NEEP would suggest that a specific and dedicated revenue source should be instituted to fund such fossil-fuel heating programs. Specifically, we would recommend a surcharge on such heating fuels that would be implemented at the wholesale level to fund programs specifically addressing thermal energy efficiency. Similar to a systems benefit charge on electricity or natural gas, such a fund would spread costs economically and equitably, and help provide a complement to the programs funded through the SBC in New York.

One again, NEEP thanks NYSERDA for the chance to weigh in on this important work. We are greatly encouraged by the progress to date, and look forward to working with NYSERDA and other New York stakeholders in the coming months and years to help the state realize a sustainable and affordable energy future.

Sincerely,

James O'Reilly
Director of Public Policy