September 22, 2011

Ms. Brenda Edwards  
U.S. Department of Energy  
Building Technologies Program  
Mailstop EE-2J  
Revisions to Energy Efficiency Enforcement Regulations  
1000 Independence Avenue, SW  
Washington, DC 20585

Re: Docket Number EERE-2011-BT-NOA-0049  
"Commercial Building Asset Rating Program"

Dear Ms. Edwards:

The National Multi Housing Council and National Apartment Association (NMHC/NAA) appreciate the opportunity to comment on the Department of Energy’s (DOE or the Agency) plan to develop a National Asset Rating Program for Commercial Buildings (AR Program). We represent the nation’s leading firms participating in the multifamily rental housing industry and are committed to improving the energy performance of the nation’s built environment, while maintaining the availability and affordability of apartment homes.

Our combined memberships are engaged in all aspects of the apartment industry, including ownership, development, management and finance. NMHC represents the principal officers of the apartment industry’s largest and most prominent firms. NAA is a federation of 170 state and local affiliates comprised of more than 50,000 multifamily housing companies representing more than 5.9 million apartment homes. Together, we operate a joint federal legislative program and provide a unified voice for the private apartment industry.

The apartment industry supports voluntary energy efficiency and benchmarking programs, and we encourage practices that enhance our residents’ understanding of sustainable building features. We have worked with the U.S. Environmental Protection Agency (EPA) to expand the availability of the Energy Star program within the multifamily sector and educate apartment firms about existing program tools. NMHC/NAA also have an extensive history of service in the development of national metrics for building energy performance and have served on numerous energy efficiency and green code committees, including ASHRAE Standards 90.1 and 90.2, the International Energy Conservation Code (IECC), ICC 700 – National Green Building Standard and ASHRAE 189.1 – Standard for the Design of High-Performance Green Buildings. However, there are significant barriers to implementing a building asset rating scheme in the commercial real estate sector, and we have several specific concerns.

The DOE’s Request for Information (RFI) states that although numerous governmental and private sector programs already exist to measure energy efficiency in buildings, there is a market need for the proposed AR Program. While we appreciate the differences envisioned between the AR Program and those programs that concentrate on operational energy performance, we question what specific failure DOE perceives and why it can not be addressed by the adaption of, or enhancements to, existing programs – namely Energy Star? It would be helpful if DOE explained what data, research or other sources were used to determine that a new, federally-crafted program is necessary and desirable.

We believe that reinvestment in the Energy Star program and DOE’s research and development programs within the Building Technologies Program is a more effective and resource-efficient path to achieving the Agency’s goals. The Energy Star brand is widely recognized by consumers and new products in the Energy Star line build upon the
credibility established by existing Energy Star denominations. It makes sense to strengthen the programs within a labeling system recognized by 80% of consumers rather than creating a “competing brand” that could likely undervalue Energy Star as consumers become confused by the meanings of the designations.

Energy Star sufficiently captures the quality of underlying asset characteristics in its’ performance metrics for most program users. For those specific applications where additional property details are required, the existing Energy Star platform could be shaped to accommodate these parameters. This would leverage existing market acceptance and public and private sector investment in Energy Star, including training tools, implementation resources and consumer education. Moreover, this would alleviate the potential for confusion in introducing yet another building labeling program for the real estate sector.

Building owners, managers, lenders and tenants already face a plethora of programs and certifications designed to identify high-achieving properties in terms of their anticipated and actual energy performance. We appreciate that one of DOE’s goals seems to be standardization among, and alignment with, these programs, yet DOE can not ignore that some labels have already taken hold in the marketplace, and are in some cases, legal requirements. Therefore, it is critical that an AR Program not frustrate or undermine these programs. DOE should ensure that these labels can work together and deliver a consistent message to all property stakeholders.

Moreover, it is important that any AR Program distinguish between new and existing properties to protect the value of older buildings and preserve the affordability of the existing housing stock. Existing buildings have inherently different design features and energy profiles, and would require substantially greater efficiency improvements to increase their asset rating. Apartments provide an important source of housing for those populations least able to absorb the costs of significant capital projects, including low-income families, the elderly, students and those just entering the workforce. This underscores the importance of coupling a labeling system with incentive and finance programs to help low-scoring properties improve their energy performance.

In addition to these broad ideas, the concept of an AR Program raises numerous other technical and practical considerations. Given the space constraints imposed by the RFI and the short comment period, we are not in a position to fully address all the elements raised in the RFI. However, we would like to highlight several specific items.

**Building Types**
We agree with DOE’s intention to develop the AR Program in stages and phase-in various building types as appropriate. The Agency has correctly identified that multifamily properties are not similarly situated with other commercial building types in terms of energy measurement and building rating. Other commercial building sectors have well-established tools for tracking and reporting building energy performance, which are unavailable in the multifamily sector. For instance, commercial buildings have long been able to manage their energy use through EPA's Energy Star program and 15 different commercial property types are eligible to receive an Energy Star rating. In contrast, EPA's Portfolio Manager tool was only recently expanded to include multifamily buildings, and the availability of an Energy Star rating is limited in the multifamily sector. Further, as EPA is in the process of expanding its Energy Star products for multifamily properties, it would be premature to determine that such programs will not be adequate to fulfill the goals of the proposed AR Program.

We realize that the asset rating proposed by the AR Program diverges from these operations-focused programs. However, the experience gained by the commercial building sectors in this area provides a basis for understanding, and supports the transition to, asset ratings. This prior familiarity with building rating also minimizes the transactional concerns and potential for consumer confusion present in the multifamily sector. Therefore, we caution against the development of multifamily asset ratings until tools and resources comparable to the commercial sector become available, and until a metric is available that reflects the diversity of the multifamily sector.

**Rating Methods and Energy Modeling**
The RFI appropriately states that an asset rating must be reliable, practical and affordable, among other things. The rating method is therefore a critical element of the program’s success. Simulated or predictive energy modeling is an inherently uncertain process, so the method selected must produce accurate and replicable results.
A tool that allows for highly detailed analysis is therefore desirable, as it can accommodate the granularity necessary to properly distinguish between similar building features. Such a tool should also provide a degree of flexibility and allow for comprehensive user inputs, which can accurately account for new and emerging building products and systems.

The prevalent building energy codes nationwide, ASHRAE Standard 90.1 and the IECC, already include detailed methods for calculating predicted building energy performance. Of note, these codes use an annual energy cost budget analysis, except where a jurisdiction requires use of another metric (i.e. site energy comparison). We encourage DOE to harmonize the simulation method used by the AR Program with the energy code protocols to the extent practicable. This would capitalize on existing expertise in code-related energy modeling and reduce the training expense associated with new modeling procedures. Even the use of well-established modeling tools and trained professionals can not overcome the discrepancies that arise in predictive energy modeling, however. Different tools can yield different results, and those results do not necessarily forecast building performance with a high degree of certainty. It is important then that the AR Program not convey a false sense of energy savings and provide stakeholders with information on the appropriate use of asset ratings, including realistic expectations of building efficiency.

**Rating Scales**

Asset ratings can utilize statistical or technical rating scales, which raises a program development question, as well as, consumer confusion concerns. The peer-to-peer, statistical scale employed by Energy Star is well understood by real estate professionals and building occupants alike. However, other asset rating programs have recommended ratings based on a technical scale, which provides fixed benchmarks for building energy performance. If such a scale is used here, it is important that the rating scale reflect real-world conditions, not aspirational building constructs. Specifically, the use of a zero-net energy building as the highest scoring option would be problematic, since these buildings are not prevalent in today’s building stock, nor can they be expected in the near future. As a consequence, very high-performing buildings may not achieve the highest ratings. Also, given that coordination with Energy Star is a stated goal, the AR Program would need to educate users about the differences in rating scales and the potential for disparate ratings between the programs.

We appreciate the opportunity to comment on this issue, and look forward to working with you in your efforts to improve energy efficiency and conservation in multifamily housing. Any questions on our comments can be directed to Eileen Lee, NMHC Vice President of Energy and Environmental Policy, at 202/974-2326 or elee@nmhc.org.

Sincerely,

Cindy V. Chetti          Gregory Brown
Senior Vice President of Government Affairs    Vice President of Government Affairs
National Multi Housing Council                National Apartment Association