



January 4, 2012

Daniel Cohen, Esq.
Office of General Counsel
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Re: Regulatory Burden RFI

Dear Mr. Cohen:

These comments are submitted by the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) in response to the U.S. Department of Energy's (DOE) notice in the December 5, 2011 Federal Register requesting information to assist DOE in reviewing existing regulations and in making its regulatory program more effective and less burdensome.

AHRI had submitted comments on March 21, 2011 in response to the previous Request for Information (RFI) issued by DOE in February of 2011. We appreciate DOE's commitment to maintaining a plan for regular, periodic review of its existing regulations and reporting obligations. Accordingly we will try to build on our previous comments to provide our perspective on actions that can be taken to reduce regulatory burdens.

Analysis of Existing Rules

AHRI's previous comments noted that for most, if not all, of the DOE covered products manufactured by our members, schedules for periodic review of both efficiency standards and associated efficiency test procedures have been established by federal legislation or DOE regulation. Recognizing the significant burdens generated by new efficiency standards or revised test procedures, we recommended that DOE make no changes to accelerate its current process of reviewing efficiency regulations or test procedures for any of the DOE covered products manufactured by AHRI's members.

Also, recognizing that DOE has several offices and that the development of equipment minimum efficiency standards and associated efficiency test procedures is only one area of DOE's varied responsibilities, we suggest that a first step should be identification of those rules for which DOE has discretionary authority to modify, streamline or repeal according to its own schedule.

Reducing Regulatory Burden

DOE has been made aware of our significant concerns regarding the certification, compliance and enforcement regulations for residential and commercial product efficiency standards published in the March 7, 2011 Federal Register. The overwhelming cost and added test burden of this final rule were described in our March 21, 2011 comments. Those comments also noted the positive attributes of the January 5, 2010 final rule which pointed the way for resolving our concerns. We are aware that DOE is working to address some of these concerns. But we are disappointed that the notice of proposed rule to amend those regulations, which was expected sometime in late 2011, has yet to be published. This disappointment is compounded by the fact that the January 5, 2010 final rule provided many of the concepts that could be refined to modify the regulation to address our concerns. The December 5 Federal Register notice recognizes that appropriate action must be taken once a rule needing modification is identified. We urge DOE to elevate the priority of this rulemaking to modify its certification, compliance and enforcement regulations to resolve the critical issue of burdensome, unnecessary and very costly testing requirements.

The certification reporting requirements are a part of those certification, compliance and enforcement regulations that currently are in effect. Those requirements should be reconsidered in view of the objectives of Executive Order 13563 that agencies adopt regulations upon a reasoned determination that the benefits justify the costs; that the regulations impose the least burden consistent with obtaining the regulatory objectives; and that agencies consider low-cost approaches that reduce burdens and maintain flexibility. In 2011 AHRI provided DOE with over 4000 certification reports for new, modified, and discontinued models of residential products (e.g. air conditioners, heat pumps, furnaces, boilers, water heaters and space heaters.) The information on these model changes is available in the directories that AHRI maintains as part of the efficiency certification programs which it operates for these products. Yet DOE requires the reporting of information beyond the essential manufacturer identification, model number, efficiency and capacity rating information provided in our directories. Those extra reporting requirements caused us to develop a separate mechanism to provide DOE certification reports at considerable expense. However, none of the additional information required by DOE is necessary for the regulatory objective of identifying models of covered products and getting the efficiency and capacity ratings of those models.

We must reaffirm our concern about a lack of coordination between DOE and the Environmental Protection Agency (EPA) in this area of reporting requirements. DOE has certification reporting requirements for residential products. EPA has separate and distinct reporting requirements for the subset of these same residential products that are covered by its Energy Star program. The objective of the EPA requirements is validation that a product meets the applicable Energy Star

criterion. As far as products covered by DOE efficiency regulations are concerned, that objective of validating the efficiency rating is no different than the objective of DOE's certification reporting requirements. Another of the objectives of Executive Order 13563 is that agencies coordinate, simplify, and harmonize regulations to reduce costs and promote certainty for businesses and the public. We believe this situation has the potential to provide a prime example of the successful implementation of Executive Order 13563 and we urge DOE to take the lead in coordinating the appropriate action with EPA to eliminate redundant and unnecessary reporting requirements.

The December 5, 2011 Federal Register notice listed 10 questions intended to assist in the formulation of comments. Our comments generally address many of the issues raised in those questions. We also have the following direct answers to the questions noted.

(3) Are there regulations that are or have become unnecessary, ineffective, or ill advised and, if so, what are they? Are there rules that can simply be repealed without impairing the Department's regulatory programs and, if so, what are they?

As part of the rulemaking for revising the minimum efficiency standards for gas-fired direct heating equipment, DOE expanded the definition of products covered by this rule to include decorative gas appliances. This aspect of that final rule is unnecessary and ill-advised. Decorative gas appliances were not included in the products encompassed by the National Energy Appliance Conservation Act of 1987 because those products are not space heaters. All provisions attempting to regulate the efficiency of decorative gas appliances should be deleted from the current regulation. This action would not impair DOE's regulatory program since the products are not part of that program.

(6) Does the Department currently collect information that it does not need or use effectively to achieve regulatory objectives?

Although this comment was made in our March 21, 2011 letter, we are not aware of response indicating DOE's reaction to the comment. Therefore, we again note that DOE has developed templates for reporting efficiency rating information in support of its certification regulations that requests other information that is not directly related to the efficiency ratings of the models and is not necessary for achieving the objective of the certification requirements. These reporting requirements should be streamlined to require only essential information and to use existing industry databases.

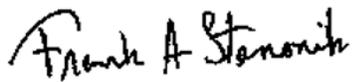
(7) Are there regulations, reporting requirements, or regulatory processes that are unnecessarily complicated or could be streamlined to achieve regulatory objectives in more efficient ways?

Although this question has been addressed by our general comments, the rulemakings covering commercial refrigeration equipment present a unique challenge. The option of using an Alternative Efficiency Determination Method (AEDM) must be made available to manufacturers

of this equipment. Furthermore, given the large number of configurations in which this equipment is offered, DOE's reporting requirements should use industry databases to the fullest extent possible.

We appreciate this opportunity to provide comments to assist DOE in streamlining its regulatory process and reducing the regulatory burden on manufacturers.

Respectively submitted,

A handwritten signature in black ink that reads "Frank A. Stanonik". The signature is written in a cursive, slightly slanted style.

Frank A. Stanonik
Chief Technical Advisor