



U.S. Department of Energy
Mr. Daniel Cohen
Assistant General Counsel for Legislation, Regulation and Energy Efficiency
Office of the General Counsel
1000 Independence Avenue, SW
Washington, DC 20585

Via Email: Regulatory.Review@hq.doe.gov

March 31, 2011

Re: Regulatory Burden RFI

Dear Mr. Cohen:

Hearth & Home Technologies appreciates the opportunity to respond to the Department of Energy's (DOE's) request for information – published at 76 Fed. Reg. 6123 (February 3, 2011) – seeking comment and information to assist DOE in reviewing its existing regulations to determine whether such regulations should be modified or repealed pursuant to Executive Order 13563 ("Improving Regulation and Regulatory Review," issued by President Obama on January 18, 2011). Hearth & Home Technologies is the leading manufacturer of hearth products in the United States and employs over 1,100 members in 12 states.

Our Industry Association, HPBA has sent comments that we wish to support.

In particular:

DOE should not have addressed Decorative Gas Appliances in their final rule.

- It makes no sense to regulate decorative vented gas fireplaces as heating equipment subject to heating efficiency standards.
 - The utility of vented decorative gas fireplaces lies in their aesthetic appeal, not in their ability to produce heat.
 - Heating efficiency is not the relevant performance measure for these products.
- The rule was supposed to address Direct Heating Appliances and decorative vented gas fireplaces are clearly not heating equipment.
 - Their function and use are completely different.
 - They are manufactured to have completely different performance characteristics.
 - They are not tested to the same standard ANSI Z21.50 vs. Z21.88

The proposed rule made it clear that only heating appliances were being considered for regulation. Decorative products were not part of DOE's evaluation nor were any manufacturers asked to supply information about that product.



The ban on decorative vented gas fireplaces should be repealed.

- DOE never suggested, nor implied, to the industry the possibility of a ban on purely decorative vented gas fireplaces.
- The ban on decorative vented gas fireplaces will have serious adverse impact on the industry, and DOE never considered the actual impact of such a ban.
- The ban on decorative vented gas fireplaces will unreasonably limit consumer choice.
- The ban on decorative vented gas fireplaces will provide no energy conservation benefits.
 - Because these products are used for aesthetic enjoyment rather than heating, they are operated only occasionally and for relatively brief periods of time. As a result, the use of these products is not a significant energy consumption issue.

By taking action to regulate products without adequate research to understand what the products are and how they are used the DOE has formulated a rule that neither achieves its intended goal nor serves the needs of the country, while potentially destroying an industry that employs tens of thousands of Americans. Heat & Glo, a brand of Hearth Technologies, invented and patented sealed combustion gas direct vent fireplaces over 25 years ago. This technology has transitioned to become the single largest segment of the gas fireplace market and is a significant contributor to energy conservation, as they replace drafty open faced wood burning fireplaces that the DOE in their own website point to as inherently inefficient. If this rule is allowed to stand, these drafty inefficient units are exactly the fireplaces that a wide segment of the market will shift to.

The DOE regulation targets products that are beyond the scope of its intended mandate. The products are simply not designed, engineered, manufactured or used by homeowners in the manner that DOE has attempted to regulate them. It is analogous to regulating art that hangs on a wall as a wall covering.

The DOE ban on decorative gas fireplaces is clearly the wrong type of regulation. It is in obvious opposition to Executive Order 13563 as it will have a devastating impact on the industry and all the people associated with it. We join with the HPBA in respectfully submitting that the public interest and the DOE's own ethical principles demand that it should be repealed.

Respectfully,

A handwritten signature in black ink, appearing to read "Bradley D. Determan".

Bradley D. Determan
President