



August 2, 2011

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

Re: Preliminary Plan for Retrospective Analysis

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 appearing in the July 11, 2011 Federal Register requesting comments on the Preliminary Plan for Retrospective Analysis of Existing Rules.

We are encouraged by DOE's efforts to implement Executive Order 13563. We appreciate the actions already taken by DOE to address our concerns regarding the Final Rule on *Certification, Compliance, and Enforcement Regulations for Consumer Products and Commercial and Industrial Equipment*. As we work towards improving that final rule, we look forward to additional actions by DOE to address unnecessary and redundant reporting requirements, which was the other major concern noted in our March 21, 2011 comments.

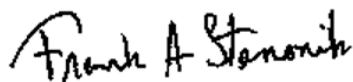
We have reviewed the preliminary plan. Since it is preliminary and with a relatively short review period, our comments focus on the candidate rules for review listed in the plan. The list includes several final rules for efficiency standards. The summary of comments provided with the July 11, 2011 Federal Register notice identified several comments discussing problems that appear directly related to the stringency of existing efficiency standards. The objective of Executive Order 13563 is to reduce regulatory burden by modifying, streamlining, expanding or repealing existing regulations. It is recognized that DOE cannot reduce the stringency of an efficiency standard. Given that, it is not clear to us what aspects of these final rules will be considered in a retrospective review that meets the objective of the Executive Order. The case of commercial refrigeration equipment presents a different question. The efficiency standard for commercial refrigeration equipment goes into effect in 2012 and DOE has already initiated a rulemaking process to consider amending that standard. Given this situation, what aspect of this rule will the review consider for the purpose of reducing regulatory burden?

The reference to the prescribed schedule of periodic review of DOE energy efficiency standards in the preliminary plan is similarly confusing. This legislated periodic review has the specific purpose of either amending an existing efficiency standard or issuing a determination that the efficiency standard does not need to be amended at that time. It is not a review directed at reducing regulatory burden. In conducting a retrospective review does DOE intend to consider amending, that is increasing, the stringency of these existing efficiency standards, as part of that analysis? If so, we believe that this would effectively be an increase in the regulatory burden since manufacturers will be forced to expend resources to address a possible new efficiency standard even as they are developing products to comply with a current efficiency standard which is just being, or has not yet been, implemented. We recognize that the retrospective review may provide DOE with information on how to prescribe future efficiency standards in a more effective and less burdensome manner. However, we believe that the retrospective review and the mandated periodic review of existing standards are distinct processes with different purposes that should be conducted separately. Accordingly, we request that the preliminary plan provide additional detail on how existing final rules on efficiency standards will be reviewed consistent with the objectives of Executive Order 13563.

Two other rules listed for review that are of interest to us are the (1) policy for adopting full-fuel-cycle analyses and the (2) certification, compliance and enforcement rule. We have already commented on the latter. In the case of the former, we urge DOE to give strong weighting to the added burden and complexity of conducting a full-fuel-cycle analysis when it retrospectively reviews this proposed statement of policy. We also request that DOE provide clarification on the current use of this proposed policy since some recent final rules indicate that it has moved beyond a proposed policy.

We appreciate this additional 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