

The following comments are provided on behalf of Ingersoll Rand, Residential Solutions, manufacturer of Trane and American Standard residential air conditioners, heat pumps, furnaces and accessories therefore. --- Ingersoll Rand appreciates the opportunity to comment on the Department of Energy's request for information on "Reducing Regulatory Burden" in the spirit of Executive Order 13563

It is ironic that the response interval for the RFI on reducing regulatory burden overlaps the issuance of the ***Certification, Compliance, and Enforcement for Consumer Products and Commercial and Industrial Equipment; Final Rule*** [the enforcement rule]. That rule constitutes a step increase in the regulatory burden on the manufacturers of the covered equipment. Therefore, the enforcement rule could be used to illustrate the points in response to the RFI since it substantially increases the burden on the manufacturers of "covered products". Detailed comments illustrating a few of the more severe burdens of the enforcement rule are in preparation by AHRI and will be filed separately.

The distinction between the two response dates in 76 FR 6123 is not clear. Therefore it is being interpreted that the intent is that the March 21 date refers to response to the overall inquiry and the RFI section entitled "Request for Information", and that the April 4 date refers to response to the RFI section entitled "List of Questions for Commenters".

Since this is the first set of comments to the RFI, the comments will also address the key points abstracted in the RFI from the Executive Order 13563.

First, it is important to note that the rule-making process itself can impose substantial burdens on manufacturers. In establishing rules for appliance regulations DOE-EERE can draw on a standards-setting budget on the order of \$20 million plus for "Equipment Standards and Analysis" as reported in the DOE Fiscal Year 2010 Budget-in-Brief at http://www1.eere.energy.gov/ba/pba/pdfs/fy10_budget_brief.pdf . This is augmented by support from commercial contractors and the DOE labs, the latter being assumed to be funded to some degree by other funds.

Regardless of the details, the point is that the DOE resources can all work together on individual projects, and that DOE has sufficient resources to fund a product leader for each product type. Industry would seem on the surface to have comparable resources to balance the picture. However, the personnel from the several manufacturers are severely restricted by anti-trust rules from working together . A simple example would be product cost, where DOE can draw on internal resources, the national labs and external contractors while the manufacturers cannot match those resources. Individual manufacturers may have good estimates of their costs, but they cannot share those with other manufacturers to arrive at industry cost distributions for example.

There are corresponding burdens in the analytical area where DOE draws on internal resources, two or more national labs and commercial contractors.

Several factors from the executive order, cited in the RFI, merit discussion in the context of burden on manufacturers.

- Do *benefits justify costs*? All too often, the analyses performed by DOE use periods of decades for analysis of payback or energy savings for new standards. It is obvious that modest benefits over very long periods inflate the appearance of the benefits. Those inflated estimates work a hardship on both manufacturers, and the consumer. As a starting point to correct this imbalance, the analysis period should never be longer than the expected life of the covered product in question or the expected time to the next rule making, whichever is longer.
- The 3% to 7% *Discount Rate* used by DOE in cost-effectiveness analyses is far too low. The lower of these numbers is on the order of the rate of inflation. Thus, in effect, use of such a low number places a value of zero on the *time value of money* which is what the use of discount in economic analyses is all about. --- Recognizing the magnitude of the average household debt, it is likely that any emergency replacement of an HVAC system will be carried on a credit card at an interest rate of more than 13%, according to the Federal Reserve at <http://www.federalreserve.gov/releases/g19/current/g19.htm> . Something on the order of 13% to 15% would be a much more realistic discount rate.
- Estimating the *least burden on society* is admittedly a difficult task. The burden analyses, do not give adequate consideration to the segment of society represented by the employees and families that draw their livelihood from the manufacture, distribution, sales and service of the covered products and the parts and materials that go into these products. That represents several million people. It might be argued that this is covered by the manufactures' impact analysis [MIA]. However, the MIA is too detached from solid data to be reliable and past experience indicates that even if a manufacturer gives the contractors actual cost data, that data may not impact the cost estimates by the contractors. Furthermore, the scope of the MIA is not broad enough to embrace the range of affected individuals mentioned here.
- The *costs of cumulative burdens* are almost impossible to estimate. Since there are literally thousands of laws and regulations that govern the operation of any manufacturing business, attempting to provide cost estimates for the cumulative burden would have only one sure outcome -- an added burden for the human and financial resources needed to attempt such an estimate.
- *Maximizing net benefits* to include the factors of “[economic, environmental, public health and safety, and other advantages; distributive impact; and equity]” is attractive in concept but is not possible. Several of these positive attributes may be in competition such that increasing one will decrease another. A simple illustration of the this might be that the economic interests of some of the stakeholders are most likely in competition with those of others. An axiom in optimization classes is that the greatest good for the greatest number of people is one greatest too many. The general principle can be elaborated further if necessary.
- The DOE rule-making process in recent years has been rather good about “*encouraging public participation* [if “public’ is taken to mean stakeholders] *and an open exchange of views, with an opportunity for the public to comment*”. However, there are several opportunities to improve the process; These include:
 - Restoration of the ANOPR to the regulatory process.

- Making the stakeholders privy to the analytical processes that lead to the TSD, for example. As it is now, the DOE contractors obtain data from the manufacturers and other sources, and the next the manufacturers see of them is at the public hearings which is far too late.
 - Making the presently opaque analytical process that are used in development of the TSD transparent.
 - Publishing a detailed agenda before public hearings and making the visual materials to be presented by DOE and the contractors available with sufficient lead time for the stakeholders to respond; and
 - Providing the opportunity for the stakeholders to make presentations at public hearings using visual materials. This will lengthen the public hearings, but that would be very worthwhile in the interest of communication and cooperation.
- Finally, the most effective way for each branch of government to respond to the spirit of the Executive Order would be for the government to itemize the laws and regulations under their purview and then to undertake a case by case review of the burdens on the regulated community. A few questions should be answered:
 - Do we need this rule?
 - If so, why?
 - Is there a better way to doing it?

Taking rules on a case by case basis would permit proper deliberation on the impact of the rules and regulations and provide the elements to establish a plan for fewer and simpler rules and regulations. --- If this is considered to be too burdensome on the government, it is manifestly more so on the regulated community.

If there are any question on which you seek further elaboration, please contact the following:

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