



April 7, 2011

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

RE: Regulatory Reduction RFI, 76 Fed. Reg. 6123, February 3, 2011

Dear Mr. Cohen:

This is in reply to comments filed by the Hearth, Patio & Barbecue Association (HPBA) urging the U.S. Department of Energy (DOE) to repeal its energy conservation standards for direct heating equipment as applied to decorative vented gas fireplaces. I support HPBA's comments because I do not believe that decorative vented gas fireplaces were ever meant to be included under the term "direct heating equipment" as that term appears in the Energy Policy and Conservation Act (EPCA).

As the Director of Government Affairs and General Counsel of the Gas Appliance Manufacturers Association (GAMA), I was one of the principal negotiators and draftsmen of the National Appliance Energy Conservation Act of 1987 (NAECA), including the provisions of NAECA relating to direct heating equipment. NAECA, amending EPCA, established federal minimum efficiency standards for direct heating equipment, specifically for gas-fired wall furnaces, floor furnaces, and room heaters.

At the time NAECA was drafted (1986) and later enacted into law, decorative gas fireplace products were known to exist. However, in negotiating the NAECA standards for direct heating equipment, GAMA never considered applying the standards to decorative gas fireplace products because we did not believe that such products were covered by the term "direct heating equipment." GAMA did not consider them to be wall furnaces, floor furnaces, or room heaters. We did not consider them to be heating products at all. I firmly believe that the other parties with whom we negotiated these standards likewise never considered decorative gas fireplace products as being included within the scope of "direct heating equipment." Had they believed otherwise, they would have proposed standards for these products for negotiation.

Consistent with this GAMA established an efficiency certification program for gas-fired, vented direct heating equipment in 1989. That program covers vented room heaters, floor furnaces and wall furnaces. It did not, and still does not include vented decorative gas appliances. That efficiency certification program is still in operation today as an AHRI program with the same scope. In our current directory we do list vented fireplace heaters.

As further evidence of that basic understanding it should be noted that in 1995 the industry initiated the development of a safety standard for vented gas fireplace heaters. The first NAECA minimum efficiency standards for vented direct heating equipment went into effect in 1990. As the public became more familiar with efficiency ratings for vented space heaters, the effort was started to uniquely identify vented heaters which looked like “fireplace” products, but because they were heaters, were subject to federal minimum efficiency requirements. This action further distinguished vented fireplace heaters from the unregulated vented, decorative fireplace products that were in the market. The first edition of the American National Standard/CSA Standard for Vented Gas Fireplace Heaters was issued in early 1998. As a clear indication of the products to be covered by that standard, the Scope section includes the following:

1.1.4

Appliances covered by this standard, except for those installed in recreational vehicles, are those whose efficiencies are regulated in the United States by the Energy Policy and Conservation Act of 1975 and the National Energy Conservation Policy Act of 1978* or covered in Canada by Exhibit B, Items Unique to Canada.

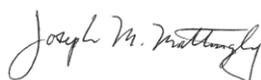
AHRI did participate in the rulemaking that resulted in revised minimum efficiency standards for gas-fired direct heating equipment. In January 2007 we filed comments noting that these minimum efficiency standards did not apply to vented decorative gas appliances and recommended that DOE use the existing nationally recognized appliance safety standards to distinguish products that are heaters and thus covered by the rule (i.e. vented fireplace heaters) from products that are not heaters (i.e. vented decorative appliances). A month later we submitted the following supplemental comment:

“In our January 5, 2007 comments we had commented that vented hearth products should be covered by this rulemaking and that these products should be categorized as a type of room heater. Upon further discussion with our members who manufacture these products, we are amending those earlier comments. We suggest that a new “Design Type” of “Fireplace Heater” be established for these vented hearth products. Also we recommend the following minimum AFUE requirements for this new type of direct heating equipment.”

Direct Heating Equipment Design Type	Product Class (Btu/hour)	AFUE (%)
Fireplace Heaters	Up to 20,000	58
	Over 20,000 up to 27,000	63
	Over 27,000 up to 46,000	64
	Over 46,000	65

We consistently presented this position in several comment submittals. The decision in the final rule to include all but the smallest input decorative gas appliances was a surprise to us. It effectively ignored both the historical record and the underlying definitions of the safety standards.

Respectfully submitted,



Joseph M. Mattingly
AHRI Secretary and General Counsel