

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

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

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

Dear Mr Cohen ,

Thank you on behalf of Empire Comfort Systems for the opportunity to comment on the Regulatory Burden issue . Our company is a small company of about 260 employees located about 20 minutes east of St.Louis in Belleville , Illinois . We try to do things according to the regulations given to us and to be good citizens . We support the comments submitted by the Hearth Patio and Barbecue Association concerning the need to repeal DOE's April 16, 2010 ban on decorative vented gas fireplaces .

Our company supported the law requiring energy efficiency standards for Direct Heating Equipment (DHE) , and when DOE started the rule making process to establish such standards we participated actively and in good faith .During the process we were visited by DOE's consultant Navigant and spent many hours entertaining DOE's consultants answering questions about our company and our products . There was follow-up and as far as I know full cooperation on our part to play within the rules . This process seemed to provide an opportunity to give data , exchange thoughts concerning our business and on the jobs we provide . Whether I liked the results regarding the space heating equipment or the heater rated hearth products is not relevant to this conversation . What is relevant is the idea that there was a process where the manufacturer and the regulator (that would be DOE) got together and exchanged information ; T hat DOE did its due dilligence in the rule making process .

Fast forward to the regulation being published and we find an entire category of products covered by the regulation that were not discussed or addressed in the information exchange duringDOE's due dilligence process . We find this category of products not just being regulated , but being outlawed by a btu input limit that is obviously not workable , eliminating 70% of the vented fireplace product offerings for an entire industry . No one ever asked what anything like this would do to our company or to jobs in our industry .

Your RFI question # 10 can be easily answered from my perspective . What DOE did for the ANSI Z21.86 space heater products and the ANSI Z21.88 heater - rated hearth products might work , but what DOE did for the decorative ANSI Z21.50 certified fireplaces did not . If the rules for due dilligence would have been followed I believe you would have found that there is sufficient data to indicate that decorative gas fireplaces are decorative , not heater-rated . These products are no different than gas log sets , the memorial flame for JFK or the Olympic torch we love to burn every couple of years . It makes no sense to include these products in a regulation covering heaters , and it makes no sense at all to outlaw them . DOE's lack of due dilligence on decorative products led to a rule that has the potential to wipe out some companies and a lot of jobs . I believe President Obama is looking for ways to create jobs here in the USA and the regulation as written does just the opposite .

A DOE official gave a nice presentation on 3/30/11 to the AHRI Symposium group at the Fairmont Hotel . His presentation included a list of "Potential Benefits of Standards" ; Innovation and new markets, new entrants , opportunity , level playing field , beats multiple state requirements . None of these potential benefits can be realized in regard to decorative products , as DOE would have known if it's due dilligence had been performed . This is very disappointing . Another section of his presentation pointed out that we should "actively participate . early and often ." . I would suggest we we did that but it didn't help , because we were never given the opportunity when it comes to decorative fireplaces . The DOE official also noted that " participation can be expensive , non-participation is likely much more so ." We got the worst of both

worlds , because participated fully , and then it turned out that we were not allowed to participate on by far the most important issue . We showed DOE that we were and are perfectly willing to cooperate , yet it seems like we were thrown under the bus for working with you on two issues while a third was kept as a secret . The rule making process does work , but we need an opportunity to use it .

I think you understand the frustration . I was personally involved , providing information , attending public hearings and being involved in the entire process to come to this point .

Thank you for the opportunity to give you the information from our perspective . Please repeal any regulation on decorative vented gas fireplaces .

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