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## **Analysis of the Department of Energy’s final rule: “Energy Conservation Standards for Direct Heating Equipment”**

The Department of Energy published a final rule titled, “Energy Conservation Standards for Direct Heating Equipment” (76 Fed. Reg. 71836), in the November 18 *Federal Register*. This rule makes changes to an April 2010 final rule (75 Fed. Reg. 20112) regarding the regulation of decorative vented gas appliances. However, the new final rule includes a number of provisions that fail to adequately protect U.S.-based jobs related to the manufacturing, distribution, and sale of decorative gas hearth products. Below is a summary of the final rule’s key points, as well as a brief analysis of the rule’s impact.

### ***Rule Summary Highlights***

The final rule:

- Amends the current regulatory definition of gas hearth products and outlines four new regulatory manufacturing and marketing requirements, as well as energy efficiency standards, for decorative vented gas fireplaces.
- Exempts decorative fireplace gas log sets from these new requirements and energy efficiency standards. However, the final rule states that the Department will conduct additional research and revisit the issue of whether, and how, to regulate decorative gas log sets.
- Expands the definition of “direct heating equipment” (DHE) to include any device that could “supply some amount of heat to the living space” and classifies both decorative vented gas fireplaces and decorative log sets as DHE because of “the presence of a flame,” which provides “some amount of heat,” and despite a product’s designed intent of not providing heat like a utilitarian room heater.
- Acknowledges that testing measures for decorative gas log sets do not exist, but notes the Department may write new test standards despite lacking an underlying methodology by which to regulate decorative gas log sets. The final rule also solicits input from consumers and industry stakeholders on testing parameters for decorative gas hearth products, but only provides 10 days for stakeholders to comment, as the final rule’s information request is combined with another, separate request issued in October.

### ***HPBA Analysis***

- The Department is incorrect in classifying decorative vented gas fireplaces and decorative log sets as DHE. These decorative products are intended for aesthetic enjoyment rather than utilitarian heating use, and their use patterns are totally distinct from those of heating appliances. Estimates indicate that the use of decorative gas products account for only a minuscule proportion of natural gas usage in the United States. Therefore, decorative gas hearth products should not be DHE. This incorrect classification, combined with the Department’s stated intent for future regulatory action, places these products at risk of inappropriate energy efficiency requirements that, in turn, places American jobs at risk.

- The expanded definition of DHE ignores the designed intent of a product's purpose and could include require oversight of unrelated household items that "supply some amount of heat to the living space."
- Throughout the rulemaking process, the Department has not provided sufficient supporting data or analyses in the rulemaking record for the public or hearth industry stakeholders to consider, thus depriving consumers and stakeholders an opportunity to comment on the policy change.
- In the final rule, the Department states it codified its definition of DHE in regulation because no statutory definition exists. HPBA urges Congress to enact legislation that would exempt decorative gas hearth products from the DHE classification, appropriately defining and distinguishing these products from heater-rated appliances. This policy solution would ensure a proper regulatory process and protect American jobs and small businesses.

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The Hearth, Patio & Barbecue Association (HPBA) is an international trade association first established in 1980 to represent and promote the interests of the hearth products industry in North America. In 2002, the Hearth Products Association (HPA) merged with the Barbecue Industry Association (BIA) to form HPBA. The association includes manufacturers, retailers, distributors, manufacturers' representatives, service and installation firms and other companies and individuals -- all having business interests in and related to the hearth, patio and barbecue products industries.

HPBA's members manufacture, import, distribute, sell, service and represent products that include factory-built fireplaces, gas log sets, inserts and accessories; wood, pellet, coal, gas and electric stoves; barbecues, grills, smokers and accessories; and patio furniture and accessories.