



August 23, 2011

Department of Energy  
Office of Energy Efficiency and Renewable Energy

**RE: NOPR ON ENERGY CONSERVATION STANDARDS FOR DIRECT HEATING EQUIPMENT, DOCKET NO. EERE-2011-BT-STD-0047 RIN 1904-AC56**

Empire Comfort Systems is a small manufacturer in Belleville, Illinois. We have been manufacturing heating products for almost 80 years and decorative hearth products for about 15 years.

The following is our response to your request for comments on the NOPR, which is the subject of this public hearing.

1. By description, intended use and ANSI certification, decorative hearth products are decorative products not heaters, intended to be used for ambiance not heating and certified to a standard specifically designed for ambiance and not direct heating use. They are designed and used for decorative purposes. It is not reasonable to assume that because a product uses energy or has heat as a by product that it can be regulated as another product which is designed, certified, and currently regulated as a direct heating product. The gas porch light, gas fire pit, Olympic Torch, and President Kennedy's Eternal Flame all consume energy and produce heat but their design, intended use and certification have nothing to do with direct heating equipment. Our company, because we manufacture wall furnaces and heaters, has been involved in the direct heating equipment regulation since the beginning. There was not then, nor should there be now, an unreasonable characterization of decorative products. We manufacture heater rated hearth products and, in fact, have the most efficient vented hearth product in the industry. The design of this product is obviously to be energy efficient. At the same time, we cannot ignore the decorative nature of the hearth business. Even with the most efficient product, we cannot ignore the ambiance. A totally utilitarian hearth product is a contradiction in terms, which is why there are two categories of hearth products.



2. The proposed date of compliance is an over-burdensome date for manufacturers. A minimum of three years from final rule publication is more reasonable. It has been identified that 70% of the industry shipments are in the decorative hearth category. This is a conservatively low estimate, especially considering that estimate did not include gas log sets. Not only do the manufacturers, most of which are small businesses as defined by the SBA (Small Business Administration), need time to R & D but the volume of certifications will increase at this level. With a finite amount of certification facilities available to manufacturers a date of 2014 is too aggressive for an industry made up of small businesses with limited resources. This industry is, potentially, of all the categories targeted for inclusion in being regulated, the smallest energy user and an aggressive timeline is not warranted. Mandating the same timeline for a completely new regulated category that a long regulated product would have is over-burdensome and too aggressive for relatively little savings in return.
3. The proposed exclusion is only necessary if the decorative vented hearth product and vented gas log set categories are kept in the direct heating equipment category. See comment 1 regarding the “reasonableness” of decorative products being in the DHE category. The inclusion and then exclusion is a contradiction in defined terms by the DOE. The DOE refers to the ambiance and decorative nature of these products which is an admitted contradiction by definition. There is one “primary use” for the decorative products: ambiance. The heat is a result of unintended but necessary consequences for safety and practical application of the product.
4. The incorporation of the proposed amended definition for “vented hearth heater” will result in stopping current R & D on new heater hearth and space heating equipment. Some manufacturers are spending these resources on higher AFUE equipment research and development. The end result will be delays in product introductions of great value in saving energy. It will also cause expenditures in R & D, engineering, marketing, and inventory that would normally be against all good business practices. The coordination of resources and expense will put undue burden on an industry that is small business dominated, a stressed industry, directly affected by the housing market downturn.
5. On page 43948 of the subject NOPR (first column, bottom) the DOE records “...and DOE believes that the vented hearth heater market has not changed significantly since the time of April, 2010, final rule.”



This comment is short sighted and, if the time frame were expanded to include the great recessionary period starting in 2008, would see that the hearth industry is already struggling, scratching, and clawing to stay afloat, small business by small business. Since 2008, two major hearth manufacturers have gone out of business, arguably the #2 and #3 producers in the United States. This already argued unreasonable regulation is likely to promote more job losses for an energy load of little or no consequence.

Thank you for your time, and we respectfully request you cancel the entire proposal of regulating decorative hearth products.

Sincerely yours,

EMPIRE COMFORT SYSTEMS, INC.

Jane Bauer  
Director of Government Affairs

JB:crb