

Washington's Centrally Planned Heating and Cooling

by Michael Heberling

While the Clinton administration had eight years to “save the environment,” it waited until the final days to push through a flurry of questionable environmental regulations. Among these was the regulation that would require increasing the efficiency of central air conditioners and heat pumps by 30 percent. In the arcane language of the energy business, the SEER (Seasonal Energy Efficiency Ratio) would go from 10 to 13.

According to Deborah Miller of the Air Conditioning and Refrigeration Institute (ARI), “the DOE, in its own words, ‘rushed’ to publish a proposed new rule. It cut short the comment period; new analyses were injected into the record with only nine days left in this abbreviated period; it ignored its statutory mandate to balance economic interests in the rulemaking; failed to consult the Department of Justice on the impact 13 SEER would have on competition; and published a new rule of 13 SEER ‘literally in the final minutes of the last administration.’”¹

On January 22, 2001, the last day on which Clinton administration regulations could be published, the final rule mandating a 30-percent increase in the heating and cooling standards appeared in the Federal Register.² From a political standpoint, this

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administrative legerdemain was pure genius. By throwing these restrictive regulations over the fence, the outgoing administration’s legacy of being “for the environment” was preserved without any of the negative green baggage that so often evokes the wrath of consumers. Nevertheless, under the new, more-stringent environmental standards, the cost of air conditioners and heat pumps will go up \$274 to \$687.³

The incoming Bush administration had three options (all unsatisfactory) in dealing with the left-behind hot potato.

Option 1: Just say no and repeal the regulation. *Benefit:* Momentarily keeps one onerous regulation at bay. *Downside:* High risk (99.99 percent) of being branded “anti-environment” by the media, environmentalists, and the Earth-first politicians. (Remember what happened with the arsenic-in-water standard?)

Option 2: Hold your nose and simply accept it as written. *Benefit:* An absence of negative media coverage. *Downside:* Consumers are saddled with still more restrictive environmental regulations of dubious value. Ironically, the label “pro-environment” does not come with this option. The best that can happen is that the phrase “anti-environment” will not be used as frequently.

Option 3: Propose a watered-down or “lite” alternative. *Benefit:* Although still bad, this is not so bad as the regulation proposed. *Downside:* High risk (99.98 percent) of still being branded “anti-environment” by

the media and environmentalists. It is interesting that the vitriolic response accompanying this option is exactly the same as if the regulation had been withdrawn. Since there is never any distinction made between the out-and-out repeal and the watering down of a bad environmental regulation, why ever settle for half measures?

As it turns out, Option 3 was the path that the Bush administration chose. On April 13, 2001, the Department of Energy (DOE) announced its intention to raise the existing standards by 20 percent instead of the proposed 30 percent. The SEER value would be raised from 10 to 12 (instead of 13). The higher standards would take effect January 2006.

How was this 20 percent increase in the SEER value received? The Natural Resources Defense Council was typical: "This latest rollback . . . hurts the consumer and the environment."⁴ Only in Washington is a 20 percent increase called a rollback.

What seems to be lost in the debate over heating and cooling standards is the consumer. There are two possible questions that could be asked. The appropriate question is: What does the consumer want? The inappropriate and elitist question is: What is best for the consumer?

The answer to the first question is always the same, no matter what the product. Consumers want choices. They want a number of options so that each buyer can pick the most suitable product. When it comes to purchasing an air conditioner or a heat pump, these options relate to the upfront cost, annual operating cost, esthetics and special features, size of the unit, reliability, and performance. Other factors that influence a consumer's choice include his or her age, family size, financial status, and location.

Consumer Forgotten

Unfortunately the federal government never asks, nor does it want to hear, what the consumer really wants. Since it is predisposed to solutions based on central planning, should it come as any surprise that offi-

cialists turn only to like-minded advocates of central planning for advice, guidance, and direction? The government's summary dismissal of the true interests of consumers is legitimized by a self-appointed coalition that thinks it knows best: the "consumer advocates" and environmentalists.

According to Andrew deLaski of the Appliance Standards Awareness Project, more than a hundred organizations support the SEER 13 standard.⁵ It would be interesting to know how many of these consumer-advocate groups even bothered to survey people on what they really want. Maybe the public is not interested in what these "consumer advocates" are advocating: fewer choices and higher prices. As Thomas Sowell put it, "Indeed, there are no requirements for any knowledge whatsoever to become an environmentalist or a consumer advocate. There are more qualifications required to become a taxi driver or a meter maid than to engage in any of a number of busybody occupations that are taken seriously in the media, as if they represented expertise on something."⁶

When viewed in total, the evolution of government-mandated products, whether the toilet, the washing machine, or the air conditioner and heat pump, displays several disturbing principles⁷:

First, the right to choose is anathema to proponents of central planning. The elimination of the consumer choice is based on the attitude that people are not bright enough or informed enough to make the "correct" decision when left to their own devices.

There is nothing high-tech or mysterious about either the 20 percent increase or the 30 percent increase in efficiency standards. According to the Appliance Standards Awareness Project (one of the standard's advocates), "manufacturers have successfully marketed SEER 13 air conditioners, now considered "mid-efficiency" units, for more than a decade. The most efficient units available reach SEER 16 or higher."⁸ (Apparently the free market works just fine without government mandates.) The real problem is that consumers have chosen to ignore the government and environmentalist

endorsement of the more-expensive systems for the reasons mentioned. The consumers' rejection helps explain why government products are mandated while preferred, free-market products are outlawed.

Second, central planning, by definition and in practice, undermines competition and innovation. The Department of Justice concluded that the SEER 13 mandate would have "a disproportionate impact on smaller manufacturers. Currently less than 20 percent of the total product lines meet the proposed government standards. However, for some small manufacturers, 100 percent of their lines fail to satisfy the government standard."⁹ The mandate would outlaw 84 percent of the existing central air-conditioner models and 86 percent of all the heat-pump models.¹⁰

There is a cottage industry of small businesses that build heating and cooling systems for manufactured homes and smaller existing homes. These entrepreneurial mom-and-pop operations would be effectively put out of business by the government mandate. They could not make units that both meet the required higher efficiency standards and at the same time fit into the constrained space of manufactured and existing small homes. It should come as no surprise that the Manufactured Housing Association and the National Association of Homebuilders oppose the SEER 13 standards.

Third, government solutions are one-size-fits-all solutions. The federal government in its omnipotent central-planning wisdom has concluded that only one factor is, or should be, of importance to consumers: operating cost. The result is always expensive to consumers, with the advertised benefits hard to find.

The increased efficiency standards will apply uniformly in all 50 states. To the bureaucrats in Washington, the air-conditioning and heating requirements in Michigan and Texas are exactly the same. It is true that a consumer in Texas would be concerned about the annual operating costs of an air conditioner because of the long hot summers. However, for the Michigan consumer, the upfront cost of an air conditioner would be far more important than the oper-

ating cost. It is hard to get a financial payback on a more efficient (and costly) air conditioner in Michigan because of its shorter and cooler summers. For obvious reasons, the situation would be reversed with respect to the winter heating requirements in the two regions.

Money-Losing A/C

The DOE estimates show that 73 percent of all households will lose money (between \$17 and \$188) over the 18-year lifespan of the air conditioner. Twenty-seven percent of all households, mostly in the south and southwest, will realize a net saving of \$457. The net savings for all households (both the losers and winners) with the more-efficient SEER 13 air conditioner and heat pump will be a grand total of \$45. (That's not \$45 every year, that's a \$45 saving after almost two decades of operation).¹¹

Fourth, government-mandated products hurt the poor and the elderly. Government claims of fighting for the downtrodden do not hold up under close scrutiny. Of all groups, low-income consumers will be the most harmed by the higher standards. DOE data show that 80 percent of the poor households will lose money with the higher-efficiency air conditioners.¹² As the Competitive Enterprise Institute's Sam Kazman and Ben Lieberman point out: "[T]he higher costs may force some low income homeowners to forgo the purchase of a new system, either by doing without air conditioning, opting for cheaper but less efficient window units, or undertaking potentially costly short-term repairs necessary to keep older systems operational."¹³

With many elderly on fixed incomes, an expensive high-efficiency model with an 18-year payback period would not be particularly attractive. "To require senior citizens to undertake the additional expense of SEER 13 systems, even though the payback period for the investment may exceed their expected lifetimes, demonstrates particular insensitivity to this subgroup," Sam Kazman and Ben Lieberman of the Competitive Enterprise Institute add.¹⁴

Since a high percentage of the poor and the elderly live in small and manufactured homes, they would be especially hurt by the new government standards. “In many instances, installation of the larger indoor coils required with a 13 SEER condensing unit would drive up costs by hundreds or even thousands of dollars,” writes Clifford H. Rees Jr., president of the Air-Conditioning and Refrigeration Institute.¹⁵

Adds Samuel Cole of Cole Heating and Cooling: “I fail to see the need to force Americans to purchase more efficient and more expensive equipment. Our sales have shown us that people who can afford better equipment will buy it, and others will not.”¹⁶

Fifth, environmentalism appears to be the de facto state religion of the United States. But it seems motivated more by expediency than any genuine religious belief. Since central planning is more apt to hurt the poor and the elderly than the rest of the population, a higher calling is needed to justify the government’s intrusion into the heating and cooling business. Being “good for the environment” always trumps hurting the “little guy.” Extravagant claims about the environmental benefits of central planning are to be taken as gospel. Opposing, or simply questioning, anything officially sanctioned as good for the environment will be treated as blasphemy.

Does It Matter Who Wins?

A collection of environmentalists, “consumer” organizations, and states is challenging the government’s smaller efficiency increase in the U.S. Second Circuit Court of Appeals. It really does not matter who prevails, because the core issue is consumer freedom and the opposing sides are fighting over the extent to which that freedom is lost. The consumer will lose no matter who wins.

This is nothing new. Since its creation in 1977 the Department of Energy has been seeking a mission to justify its existence. The

DOE has had a track record “unblemished by success.” The American taxpayer has been forced to underwrite one multibillion-dollar boondoggle after another. The \$80 billion “synfuels” (synthetic fuels) project to turn coal, tar sands, and shale into petroleum was an unmitigated disaster that became a symbol for government waste. After providing over \$15 billion in tax credits and subsidies for renewable energy, wind and solar power now account for less than 1 percent of the electricity produced in the United States. Then, in 1987 the DOE finally found its niche. It got into business of “helping consumers” by mandating energy-efficiency standards for toilets and home appliances.

We can only wonder how our country survived for over 200 years without the department. □

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3. Susan E. Dudley, “Willy-Nilly Regulations: Climate of Haste Hurts Consumers,” <http://www.mercatus.org/news/atlanta.htm>, January 2, 2002.

4. Rachel Massey, “Bush Mandates Arsenic in Your Tap Water,” Organic Consumers Association, www.organicconsumers.org/corp/arsenic.cfm, April 12, 2001.

5. Mazurkiewicz.

6. Thomas Sowell, “Charismatic Ignoramuses,” *Capitalism Magazine*, June 1, 2002.

7. See my “The Federally Mandated Toilet Still Doesn’t Work” and “Washing Your Clothes Washington’s Way,” *Ideas on Liberty*, November 2001 and January 2002, respectively.

8. “Bush Administration Proceeds with Rollback of Energy-Saving Standard for Air Conditioners,” Press Release of the Appliance Standards Awareness Project (ASAP), July 25, 2001.

9. “Final Rule: Energy Conservation Program for Consumer Products,” *Federal Register*, January 22, 2001, p. 7197.

10. Clifford H. “Ted” Rees, Jr., “Achieving Energy Fairness for All People,” www.ari.org/consumer/articles/2001/01-rees-fairness-am.html.

11. Dudley.

12. Laura O’Quinn, “DOE’s Air Conditioner and Heat Pump Efficiency Standards,” www.mercatus.org/research/120400.html, December 4, 2000.

13. Kazman and Lieberman.

14. Ibid.

15. Rees.

16. Quoted in Greg Mazurkiewicz, “SEER Comments In, DOE Will Decide,” *Energy User News*, October 19, 2001, www.energyusernews.com/eun/cda/articleinformation/features/bnp_features__item/0,2584,65717,00.html.