Regulation Review

Proposed Emissions Standards for Residential Heaters

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As most of the nation endures the "polar vortex" and its freezing temperatures, the Environmental Protection Agency (EPA) is beginning 2014 with a new set of emissions requirements for various types of residential heaters. The proposal would affect new wood heaters, masonry heaters, hydronic heaters, and forced-air furnaces. The unofficial, pre-publication version of the proposal is 354 pages.

The rule would change current standards for wood heaters, and add entirely new standards for the non-wood type. Although the proposal does not affect existing units, EPA does "encourage state, local, tribal, and consumer efforts to changeout (replace) older heaters with newer, cleaner, more efficient heaters." The proposal also does not affect "heaters solely fired by gas, oil or coal."

BREAKDOWN

Total Costs: $125.6 million ($15.7 million annualized)

Annual Paperwork Burden: 10,667 hours

ANALYSIS

The agency recognizes this as an economically significant rule largely because of its benefits. EPA estimates that the health benefits of reducing exposure to particulate matter will rise into the billions of dollars. The proposal's total regulatory burdens are substantial, but clearly far more modest than other significant EPA regulations. This is largely because of the rule's narrow focus. It affects a specific type of item from a relatively small industry.

It is also a small industry in the sense that many of the companies affected are considered "small entities." For instance, EPA notes roughly 90 percent of the affected wood heater producers meet the definition of a small entity. The agency prepared an Initial Regulatory Flexibility Analysis (IRFA) and could not definitively conclude whether it would have "a significant economic impact on a substantial number of small entities." However, examining the data provided in the IRFA of their Regulatory Impact Analysis (RIA), it seems likely that it would meet that threshold.

In the RIA, the agency estimates that the average annual compliance cost per entity is $127,000. For some small businesses, that is a substantial burden. As the agency notes in its cost-to-receipt analysis, some companies are significantly affected.

EPA splits affected industries into two groups when determining the distribution of small entities. The first set uses an employment level metric and contains the follow industries: "Hardware manufacturing" (NAICS

332510), “Heating equipment manufacturing” (NAICS 333414), and “Plumbing and heating equipment wholesalers” (NAICS 423720). The second set uses a total receipt metric and contains the following: “New single-family general contractors” (NAICS 236115), “Masonry contractors” (NAICS 238140), and “All other home furnishing stores” (NAICS 442299).

For the first set, all establishments with less than 100 employees would see a cost-to-receipt ratio of at least one percent. The highest ratio is for “Heating equipment manufacturing” establishments with less than 20 workers, at 20.73 percent. For receipt-metrics, all establishments with less than $10 million in receipts would see a ratio of at least one percent. In fact, all industries using that metric that generate less than $100,000 a year will see ratios in excess of 200 percent. For the next highest level ($100,000 to $499,999), those establishments will all see a ratio in excess of 40 percent.

The proposal’s RIA does contain a discussion of the “Employment Impacts” of the rule. However, it finds that there is not enough data available to conclusively estimate how much, and in what way, the rule will affect employment. It seems reasonable to assume that, especially for some entities facing costs in excess of 200 percent of annual sales, firms could potentially lay off employees.

As a point of comparison, according to Bureau of Labor Statistics data, the average annual wage (assuming a 2,000 hour work-year) for all categories of workers in the six affected industries is $41,750. That means that the $127,000 per entity cost estimate that EPA provides equals the cost of roughly three employees. Larger firms could absorb this, but it seems apparent that smaller companies could struggle.

Even by the agency’s own estimates, this rule could have stark ramifications for certain companies. However, the public will have 90 days to comment on the proposal once it is officially published in the Federal Register. In addition, EPA plans to hold a public hearing in Boston on February 26.