



June 8, 2016

TO: Members, Subcommittee on Energy and Power

FROM: Committee Majority Staff

RE: Hearing entitled “Home Appliance Energy Efficiency Standards Under the Department of Energy – Stakeholder Perspectives”

I. INTRODUCTION

On Friday, June 10, 2016, at 9:30 a.m. in 2123 Rayburn House Office Building, the Subcommittee on Energy and Power will hold a hearing entitled “Home Appliance Energy Efficiency Standards Under the Department of Energy – Stakeholder Perspectives.”

II. WITNESSES

- **Joseph M. McGuire**, President and CEO, Association of Home Appliance Manufacturers;
- **Kevin J. Cosgriff**, President and CEO, National Electrical Manufacturers Association;
- **Stephen Yurek**, President and CEO, Air Conditioning Heating and Refrigeration Institute;
- **Sofie E. Miller**, Senior Policy Analyst, The George Washington University Regulatory Studies Center;
- **Elizabeth Noll**, Legislative Director, Energy and Transportation, Natural Resources Defense Council; and
- **Thomas Eckman**, Director, Power Division, Northwest Power and Conservation Council.

III. BACKGROUND

The Energy Policy and Conservation Act of 1975, as amended (EPCA), authorizes the Department of Energy (DOE) to set energy (and in some cases water) efficiency standards for a number of home appliances. This includes air-conditioners, refrigerators, clothes washers and dryers, dishwashers, water heaters, furnaces, cooking products, lighting, and others. Many of these appliances have been the subject of multiple rounds of successively tighter standards over the span that EPCA has been in place. Several categories of commercial appliances are also regulated. In addition to these standards, the Environmental Protection Agency (EPA) and DOE

jointly operate the Energy Star Program, which identifies through product labelling those appliance models that greatly exceed the industry average for energy or water efficiency.

The Obama administration has promulgated more appliance standards than any previous administration, both amended standards for previously-regulated categories of appliances and first-ever standards for newly-created categories. The program has been expanded to 60 product categories. According to the Spring 2016 Unified Agenda, the administration is currently working on standards for fifteen additional home appliances, including air-conditioners, furnaces, light bulbs, cooking products, and dishwashers.¹

EPCA requires that energy conservation standards achieve the maximum improvement in energy efficiency that is economically justified and technologically feasible.² Among other things, this requires DOE to weigh the estimated increase in the purchase price of a compliant appliance against the estimated energy savings over its average life.³ The statute establishes that a payback period of three years or less (the first three years of energy savings covers the increase in purchase price) creates a rebuttable presumption of economic justification.⁴ In addition to economic impacts, the statute forbids any new standard that would reduce product choice, features, performance, or reliability.⁵ Separate provisions restrict DOE from setting a standard determined to not yield significant energy savings.⁶

In addition, DOE now incorporates the social cost of carbon – the estimated worldwide benefits from reducing energy use and thus greenhouse gas emissions from compliant appliances – in the standard-setting process. In its Climate Action Plan, the administration has set out a goal of reducing future greenhouse gas emissions by 3 billion metric tons carbon equivalent by 2030 as a result of its appliance energy efficiency standards.⁷

In 1995, Congressional concerns that DOE standards were becoming overly aggressive and straying from statutory intent led to a moratorium on spending for new standards in the Department of the Interior and Related Agencies Appropriations Act of 1996. Although these provisions did not ultimately become law, DOE responded in 1996 by promulgating a number of reforms commonly known as the Process Improvement Rule.⁸ The Process Improvement Rule called for significantly more early input from stakeholders before the notice of proposed rulemaking (NOPR) stage, and required that the data and analysis used by DOE to be available for review. It demanded more detailed analysis of the impacts of a rule, especially on subgroups such as low income households, senior citizens, and small businesses. It required that the test

¹ Current Unified Agenda of Regulatory and Deregulatory Actions – Spring 2016, Department of Energy, at http://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST¤tPub=true&agencyCode=&showStage=active&agencyCd=1900.

² 42 U.S.C. section 6295(o)(2)(a).

³ 42 U.S.C. section 6295(o)(2)(B)(i)(II).

⁴ 42 U.S.C. section 6295(o)(2)(iii).

⁵ 42 U.S.C. sections 6295(o)(2)(B)(i)(IV); 6295(o)(4).

⁶ 42 U.S.C. section 6295(o)(3)(B).

⁷ President Obama's Climate Action Plan, 2nd Anniversary Progress Report, June 2015, p. 8, at https://www.whitehouse.gov/sites/default/files/docs/cap_progress_report_final_w_cover.pdf.

⁸ 10 CFR 430, Subpart C, Appendix A, at <https://www.gpo.gov/fdsys/pkg/CFR-2012-title10-vol3/pdf/CFR-2012-title10-vol3-part430-subpartC-appA.pdf>.

procedures – which determine whether an appliance meets the standard – be finalized before the NOPR is released. It also called on DOE to fully consider non-regulatory approaches and encouraged regulations through consensus recommendations from stakeholders.

The provisions of the Process Improvement Rule are not judicially reviewable, and a number of appliance manufacturers have asserted that DOE is no longer adhering to several of them. In particular, they note that in a number of instances there has been little or no communication between DOE and manufacturers prior to issuance of the NOPR, and that some of the data and analysis relied upon by DOE is not shared with stakeholders. In several instances, test procedures have not been finalized ahead of the NOPR.

In addition to concerns about adherence to the Process Improvement Rule, some manufacturers believe that the regulatory constraints and consumer protections built into EPCA have not been given adequate consideration in recent rulemakings. For example, they note that DOE has gone forward with standards that arguably do not save a significant amount of energy, and that some calculated payback periods are considerably longer than the rebuttable presumption of three years. With respect to appliances that have been regulated multiple times, manufacturers have raised concerns that a point of diminishing marginal returns has been reached and that future standards would impose greater costs than benefits for consumers.

Other problems have emerged with EPCA. The statute as written leaves little leeway to modify the definitions of regulated appliances, though technological advances can render these definitions obsolete or even counterproductive. For example, the definition of external power supplies inadvertently includes emerging light-emitting diode (LED) technologies – which DOE has otherwise sought to encourage – but the definition could not be changed by the agency.

Some of these issues have been addressed in H.R. 8, the North American Energy Security and Infrastructure Act of 2015. For example, section 3152 would codify some of the provisions in the Process Improvement Rule regarding test procedures, early stakeholder input, and data availability. Section 3151 would provide DOE more flexibility to modify existing product definitions, and section 3128 would have redefined external power supplies to exclude certain LED technologies.⁹ However, other issues remain unaddressed.

IV. ISSUES

The following issues may be examined at the hearing:

- DOE's implementation of the energy conservation standards program for appliances in EPCA.
- The current status of the Process Improvement Rule.
- Potential updates and improvements to the appliance standard-setting process.

⁹ H.R. 4444, the EPS Improvement Act of 2016, would have also exempted LEDs as well as certain ceiling fan motors from the definition of external power supplies.

- The consequences of taking global warming impacts into account in the standard-setting process.
- The current status of the Energy Star Program.

V. STAFF CONTACTS

If you have any questions regarding this hearing, please contact Ben Lieberman of the Committee staff at (202) 225-2927.