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Chairman Upton, Ranking Member Rush, and Members of the Subcommittee, good morning and thank you for the opportunity to testify here today on possible reforms to the Environmental Protection Agency's (EPA) ENERGY STAR program. My name is Chris Drew, and I'm the Executive Vice President for Burnham Holdings, Inc. I'm also Chairman of the Air-Conditioning, Heating, and Refrigeration Institute (AHRI), an organization representing more than 320 manufacturers of residential, commercial, and industrial air conditioning, space heating, water heating, and commercial refrigeration equipment and components for sale in North America and around the world. As an internationally recognized advocate for the industry, AHRI develops standards for, and certifies the performance of, many of these products. The heating, ventilation, air conditioning, refrigeration (HVACR), and water heater industry serves many basic requirements of the household, industry, and commercial sectors. These include home and building climate control, supply of hot water, and refrigeration for food, beverage, and industrial needs. Currently, the manufacturing part of the industry employs 125,000 people in the United States providing over $10 billion in labor compensation annually and is responsible for $44.6 billion in total industry output.[1] When coupled with upstream suppliers, downstream distributors, and the contractor jobs associated with related installation, construction, and maintenance of this equipment, our industry represents 1.29 million employees, and generates $256.7 billion in economic activity.[2] As the association for manufacturers of HVACR and water heating equipment, AHRI represents over 90 percent of the domestic industry and more than 70 percent of the global industry.

The EPA's ENERGY STAR program was established in 1992 to promote energy efficient products, including heating, air conditioning, water heating, and commercial refrigeration equipment. In various

[1] *An Economic Analysis of the U.S. HVACR and Water Heating Industry,* The Center for Manufacturing Research in Partnership with Inforum, July 1, 2017, pg1-6

[2] "

categories, highly efficient products that meet the applicable ENERGY STAR specification can be recognized by the program and earn the right to use the very well-known yellow ENERGY STAR label. ENERGY STAR itself has become its own brand, and 85 percent of consumers recognize it as a trustworthy brand.[3] More than 7,400 partner organizations – including 160 of AHRI members, participate in the ENERGY STAR program. Products within our membership covered under the ENERGY STAR program include boilers, central air conditioners and air source heat pumps, commercial boilers, commercial ice makers, commercial refrigerators and freezers, commercial water heaters, furnaces, geothermal heat pumps, light commercial HVAC, and non-solar electric and gas water heaters. The specifications for ENERGY STAR designation are continuously updated by the EPA in collaboration with its partners and various stakeholders to ensure energy and financial savings for businesses and families buying ENERGY STAR products.

As a manufacturer of thermal and interior comfort solutions used in a wide range of residential, commercial, and industrial applications, Burnham Holdings participates in the ENERGY STAR program. Together with its subsidiaries, our company is a market leader in the design, manufacture, and sale of boilers and related HVAC products and accessories, including: furnaces, radiators, and air conditioning systems. Products are manufactured at company operated facilities in the East, South, and Midwestern United States. I personally have found our working relationship with EPA to be generally positive and I would like the program to continue as a resource consumers can rely on and trust for information on the efficiency of the products they are considering for purchase.

[3] https://www.energystar.gov/index.cfm?c=about.ab_index%20

Central to today's discussion is a discussion draft (hereafter referred to as "draft") to reform the ENERGY STAR program, on which I will focus my comments today as Chairman of the Air-Conditioning, Heating, and Refrigeration Institute (AHRI).

Administration of ENERGY STAR

AHRI believes the ENERGY STAR program should continue largely in its current form, but there are improvements in the implementation of the program the Committee should consider. While the draft contemplates moving the program from the EPA where it is currently housed to the Department of Energy, AHRI and its members have concerns about that approach. Chief among those concerns would be the disturbance of a successful program with a sudden re-assignment to a new agency. Though no doubt well-intentioned, the draft does not provide details as to how this could be accomplished without interruption or disruption. It is currently operated by a knowledgeable and dedicated staff in a way that generally ensures stakeholder input and successful outcomes. There are several questions we could not answer with the draft in its current form, such as how the responsibilities of the program could successfully be transferred from one agency to the other? What office within the Department of Energy (DOE) would take ownership? Would current institutional knowledge held by those who have run this program be lost? Would the current approved products and procedures be maintained?

The HVACR industry would prefer to maintain the program as it currently stands under the Office of Atmospheric Programs at the EPA, where it has been able to operate successfully for our products since 1992.

The draft language also leaves much of the administration of the program to the discretion of the Secretary of Energy, which raises questions about the level of predictability this arrangement could mean for manufacturers. Most concerning is the prospect of the program bouncing back and forth between agencies depending on the prerogative of the agency head or the President of the United States, when stability and certainty are so important to ENERGY STAR's success. If the program is to be moved, which is not what our industry would prefer, the Committee should provide clarity rather than ambiguity.

To continue to ensure robust participation from equipment manufacturers, it is imperative that any reforms improve the program, and allow for it to continue where successful with as little disruption as possible. A great deal more specificity is needed as to the arrangement between the EPA and DOE, if the current Memorandum of Understanding (MOU) between the agencies were rescinded or amended. HVACR manufacturers would oppose any arrangement that leaves us without the predictability of knowing where the program is to be housed from one Administration to the next.

Certification of Equipment

AHRI has long urged the federal government to recognize voluntary certification programs for air conditioning, furnace, boiler, heat pump, refrigeration, and water heating products as a way to demonstrate compliance with federal energy efficiency and conservation standards and the ENERGY STAR program. Relying on industry-consensus certification programs reduces duplicative efforts between the federal government and industry, encourages compliance with energy efficiency regulations, reduces regulatory burdens, and saves taxpayer dollars—all while enhancing market surveillance.

To maintain the program's success, the EPA relies on accredited third-party voluntary certification programs to validate manufacturers' efficiency claims. These certification programs save businesses time and money, while ensuring a robust ENERGY STAR program and safeguarding consumer protection. As part of its effort to strengthen the ENERGY STAR program, the EPA created a path for recognizing these certification programs as Certification Bodies (CB)[4] to assist manufacturers with the EPA requirements for testing and reporting ENERGY STAR products. AHRI is currently a designated CB (See Qualification Chart below for process). This allows AHRI program participants to achieve significant savings by serving various certification needs through AHRI verification testing. AHRI certification program participants can meet EPA ENERGY STAR certification and verification requirements without any additional testing on the products they wish to have ENERGY STAR labeled (see Table 1 for illustration of ENRGY STAR categories and AHRI certifications).

Qualification Process
Step 1: Establish partnership with EPA
Step 2: Submission to AHRI
Verification

- AHRI shall select at least 10 percent of each Participant's ENERGY STAR Basic Model Groups or BMGs (that are registered or certified with AHRI) as part of the AHRI Annual Testing Requirement, with a minimum of one (1) model tested annually depending on the requirement of the AHRI Certification Program.

Fees

- Annual testing for ENERGY STAR program requirements is included in the AHRI Annual Participation Fee Invoice.
- Participant laboratory audit fees are not included in the AHRI Annual Participation fee. The Participant shall be invoiced separately for the audit.

Table 1:

[4] https://www.energystar.gov/index.cfm?c=third_party_certification.tpc_cert_bodies

EPA Product Category	Corresponding AHRI Certification Program
Boilers	Residential Boilers (RBLR)
Central Air Conditioners and Air Source Heat Pumps	Unitary Air Conditioner & Heat Pump Equipment (USAC/USHP)
Commercial Boilers	Commercial Boilers (CBLR)
Commercial Ice Machines	Automatic Commercial Ice-Makers (ACIM)
Commercial Refrigerators and Freezers	Commercial Refrigerated Display Merchandisers and Storage Cabinets (CRM)
Commercial Water Heaters	Commercial Water Heaters (CWH)
Furnaces	Residential Furnaces (RFRN)
Geothermal Heat Pumps	Geothermal Heat Pumps (WSHP/DGX)
Light Commercial HVAC	Unitary Large Equipment (ULE) Unitary Air Conditioner & Heat Pump Equipment (USAC/USHP) Variable Refrigerant Flow (VRF)
Water Heaters Non Solar Electric and Non Solar Gas	Residential Water Heaters (RWH)

The draft neglects to specify how the reassignment of the program would affect successful partnerships between voluntary industry certification programs and ENERGY STAR moving forward. This is central to ensuring we do not disrupt a successful program and maintain current participation levels within the HVACR industry. These type of arrangements, as noted earlier, also save taxpayer dollars by avoiding duplicate testing and certification.

The draft does include a promising improvement to allow for "good actors" – those that are ENERGY STAR participants and have complied with all requirements of the program for a period of at least 18 months -- to be eligible for an exemption from additional EPA certification requirements as long as they remain in good standing. Unfortunately, however, this only applies to products in the consumer, home, and office electronics product categories.

As an industry that prides itself on maintaining world-class voluntary performance standards and certification programs, we would hope this approach would be made available to all the "good actors" that participate in the ENERGY STAR program. If one of our goals is to preserve the partnerships that

industry currently utilizes for compliance, we see this area as an alternative option to improve it. Were this section to be broadened to include all products, as the stated policy within the provision is to recognize those who are compliant with the programs and proved themselves trustworthy, and not based on a specific need of a product type, this would be a reasonable path to ensuring HVACR manufacturers do not receive disruption in this reform process.

AHRI would also suggest "grandfathering" those products that have been in compliance for at least 18 months prior to the enactment of this language. Compliance assistance proposals such as this are beneficial to encouraging participation in the program, particularly for small businesses.

One of the purposes of ENERGY STAR is to aid consumers in purchasing of energy efficient products, and rewarding innovation and encouraging the manufacture of those products. The program can and should recognize participants that have demonstrated a sustained commitment to achieving this objective by providing relief from additional compliance burdens unless or until an infraction is found.

Additional Regulatory Burden

As participants in the ENERGY STAR program, we have often found the partnership with EPA to be productive and collaborative. Yet, HVACR manufacturers have had circumstances when information was transmitted without time to provide substantive input. AHRI believes that public participation in the agency decision-making process is an essential mechanism to ensuring accountability and good results. As an industry, we value a predictable and transparent regulatory process that allows for robust industry engagement.

While the Administrative Procedure Act is the most commonly used method of ensuring stakeholder input, ENERGY STAR is not a regulatory process. It is a voluntary program, and applying a full Administrative Procedures Act (APA) process would likely create an unnecessary burden for a program like ENERGY STAR.

Ensuring proper stakeholder input and notification could easily be achieved through agreeing on a process that is transparent and predictable, without the burdens APA would place on the agency and participants. Use of APA would slow the process and make it more adversarial rather than cooperative, which would have an adverse effect on having products labelled and available to consumers in a timely manner. Applying the APA could also have the unintended consequence of opening up to lawsuits all determinations made by the ENERGY STAR program.

Beyond Equipment

The ENERGY STAR buildings programs and their focus on promoting a switch to higher efficiency equipment in homes and commercial buildings has been a great success. These programs should not be overlooked when considering reforms to ENERGY STAR because of their incredible impact on the industry. In the most recent Energy Information Administration (EIA) Commercial Building Energy Consumption Survey (CBECS), of the 5.557 million commercial buildings in the United States, 2.094 million buildings constructed before 2008 have been renovated in some way, with HVAC upgrades being by far the most common building renovation project to improve energy consumption (1.101 million –

more than half – have had an "HVAC equipment upgrade").[5] One tool HVACR and water heating manufacturers believe has been an important catalyst to this renovation trend is Portfolio Manager.

Portfolio Manager is EPA's free, online tool for building owners and managers to understand how their properties operate and how to improve their economic performance. Fifty percent of U.S. commercial floor space uses Portfolio Manager to track energy use, water consumption, and waste. Approximately 500,000 buildings, representing 44 billion square feet of commercial floor space, use EPA's benchmarking tool. Half of the Fortune 100® as well as the largest U.S. healthcare organizations, major league sports teams, colleges and universities, and even entire cities use Portfolio Manager.[6] EPA's Portfolio Manager benchmarking tool is the industry standard for commercial real estate to comply with numerous "mandatory benchmarking" laws enacted at the state and local level. Without Portfolio Manager, hundreds of thousands of buildings would lack a uniform, nationwide standard to comply with state and local energy regulation mandates.[7]

The ENERGY STAR label also has tremendous value for real estate businesses to gain competitive advantage in markets across the U.S. by branding their assets as leaders in innovation and energy efficient building technologies. Currently, 29,500 buildings, representing 4.34 billion square feet of buildings, are ENERGY STAR certified.

[5] https://www.eia.gov/consumption/commercial/data/2012/bc/pdf/b8.pdf, Renovations in buildings constructed before 2008
[6] https://www.energystar.gov/buildings/facility-owners-and-managers/existing-buildings/use-portfolio-manager
[7] https://www.energystar.gov/sites/default/files/tools/ES_Government-Factsheet_09292017.pdf; and https://www.energystar.gov/buildings/program-administrators/state-and-local-governments/see-federal-state-and-local-benchmarking-policies

The ENERGY STAR New Homes program helps families save on energy costs by offering a labelling designation to ensure application of rigorous requirements to new home construction, giving consumers standards to deliver on better durability, better comfort, and reduced utility and maintenance costs. ENERGY STAR-certified homes are designed and built with a system-wide approach in mind, so that all energy efficiency systems and features work together to deliver better performance. Quality installation of these products, in accordance with ACCA's 2015 HVAC Quality Installation Standard, is also essential for consumers to gain the full benefits of their highly efficient equipment. The EPA has been working in concert with contractors and industry to ensure consumers receive the full benefits of highly -efficient equipment by ensuring proper installation and maintenance of their mechanical and water heating systems.

The ENERGY STAR Buildings and Plants program plays an important role in helping to encourage those energy saving renovations and overseeing the labelling program favored by real estate, while the New Homes program gives consumers guidelines to help make more efficient system-wide choices. The current draft does not specify the administration of this program. ENERGY STAR is so much more than just consumer electronics, appliances, and HVACR equipment standards. HVACR manufacturers have concerns about how these building programs would continue in their current form were they to be shifted to DOE.

Stable Funding for ENERGY STAR

Sufficient funding for ENERGY STAR is vital to the continued success of the program no matter where it resides within the federal government. For U.S. manufacturers, the many employees involved in

producing and installing energy-efficient equipment, and consumers that rely on these products daily, adequate funding to improve and protect the program must be ensured in legislation.

Other ENERGY STAR Program Improvements

HVACR manufacturers are pleased to see the draft included the "no warranty" language, which had been previously negotiated between industry and efficiency advocate representatives. It has been a long-held position that the ENERGY Star program was not intended to expose manufacturers to costly class-action lawsuits, and we believe this provision should remain in future versions of any ENERGY STAR reform legislation.

There are provisions not included in the draft that HVACR manufacturers believe should be considered as the Committee considers ways to improve the current program.

For instance, if the goal of ENERGY STAR is to recognize top performing products, there should be a justification process established to determine when and at what level the ENERGY STAR program sets a new specification for products. This process could be focused on capturing a specified percentage of the marketplace that would justify its placement into the ENERGY STAR program. Reliance on industry input, vetting, and certification directories to establish the new specification ratings would help in capturing the desired percentage of the market. A cost – benefit analysis may also be helpful in this determination.

Secondly, current warranty requirements for ENERGY STAR products should be removed. Specifically, ENERGY STAR has certain warranty requirements established for qualified water heaters that do not

directly impact the ENERGY STAR rating or the performance of the product. ENERGY STAR should maintain its focus on promoting high energy efficiency and saving consumers money rather than involve itself in business decisions such as warranty requirements on products.

Finally, the agency responsible for administration of the ENERGY STAR program should be required to use industry consensus test procedures for certification testing to ENERGY STAR specifications when available. In addition, duplicative test procedures should be removed where they exist. This would make the ENERGY STAR testing process more streamlined and less burdensome on manufacturers.

Conclusion

The ENERGY STAR program is a proven and successful tool in advancing the development and use of energy efficient technologies. The program provides real value to consumers in the form of energy savings, a universally recognized brand to help consumers make educated decisions about the products they purchase, and the financial incentives tied to ENERGY STAR equipment by utilities that reward the installation of high efficiency equipment. All of these factors help manufacturers, consumers and the environment.

I want to thank the committee members and staff for being so inclusive of stakeholders and inviting comments on this discussion draft. We look forward to working with you to improve the ENERGY STAR program and the regulatory environment generally for HVACR and water heating manufacturers.