

United States Senate

WASHINGTON, DC 20510

September 3, 2020

The Honorable Dan Brouillette
Secretary
United States Department of Energy
1000 Independence Ave SW
Washington, DC 20585

Dear Secretary Brouillette:

We write to express our concern with the Department of Energy's (DOE) failure to update national energy efficiency standards for 26 types of consumer and commercial appliances – including refrigerators, furnaces, and water heaters – as required by the Energy Policy and Conservation Act (EPCA),¹ and to urge you to issue updated standards as soon as possible.

Established in 1975 as part of the EPCA, the national efficiency standards program aims to reduce household energy use by improving the efficiency of many of the most energy-intensive appliances in Americans' homes. The program has been a strong success, and the Energy Department estimates that it has saved Americans \$1 trillion on their utility bills, an average household saving of more than \$300 a year.² Many appliances sold today use a fraction of the energy they once did, despite often being more reliable, larger, and having more features. The average new refrigerator sold today uses one-quarter of the energy of one sold in 1973.³ Your Department predicts that the program will save American households an additional \$1 trillion over the next decade.⁴

These standards have generated myriad additional benefits. One study estimated that in 2010, 340,000 jobs were a result of these standards, and by 2030, they could potentially create 40,000 more.⁵ With record unemployment due to the COVID-19 pandemic, these jobs are critical to many families. Along with lower energy bills and the creation of hundreds of thousands of jobs, these standards have also helped reduce greenhouse gas emissions from power plants, resulting in avoided carbon emissions of 3 billion tons since their inception.⁶

¹ <https://earthjustice.org/news/press/2020/doe-inaction-will-cost-consumers-at-least-22-billion-and-spew-at-least-80-million-tons-of-carbon-into-the-air>

² [https://www.energy.gov/sites/prod/files/2017/01/f34/Appliance%20and%20Equipment%20Standards%20Fact%20Sheet - 011917_0.pdf](https://www.energy.gov/sites/prod/files/2017/01/f34/Appliance%20and%20Equipment%20Standards%20Fact%20Sheet%2011917_0.pdf)

³ Id.

⁴ Id.

⁵ <https://www.aceee.org/research-report/all1>

⁶ <https://www.nrdc.org/sites/default/files/energy-efficiency-standards-success-story-fs.pdf>

EPCA authorizes the Department of Energy to set efficiency standards for approximately 60 different categories of residential and business appliances and equipment.⁷ EPCA also mandates that DOE periodically review each standard every six years and improve it if it would result in significant conservation of energy, is technologically feasible, and is economically justified.

DOE has failed to review 26 of these standards within the specified six-year deadline. Some of the current standards have been overdue for updates for more than four years.⁸ Many of the current standards were recommendations negotiated between manufacturers and consumer advocates from over a decade ago.⁹ The Energy Star program, a voluntary federal labeling program for energy efficient appliances, has efficiency requirements stricter than the current DOE standards for many of these 26 categories of appliances.¹⁰ Many manufacturers already voluntarily meet the stricter Energy Star requirements, leaving little doubt that improvements to the current DOE standards are technologically feasible, cost-effective, and will result in significant conservation of energy.

At the same time that DOE has fallen so far behind in meeting its statutory obligations to improve the energy efficiency of covered products, the Department is engaging in numerous discretionary actions that could undermine existing standards by creating loopholes. Last month, DOE proposed regulations to exempt classes of clothes washers and clothes dryers from existing standards for those products.¹¹ A similar proposal issued the same day would exempt many showerheads from water use requirements.¹² Another recent proposal would exempt classes of dishwashers from the current standards.¹³ These proposals have been put forward even though EPCA includes an “anti-backsliding” provision that forbids DOE from weakening standards once they are issued.

On August 10, 2020, a number of state Attorneys General notified you that unless the Department fulfills its non-discretionary statutory duties to update these standards within 60 days, the states will commence litigation seeking an order enjoining the Department to do so.¹⁴ A number of consumer and environmental groups also notified the Department of their intent to do the same.¹⁵ We urge you to take the action required of you by law and use departmental resources to update these guidelines rather than fighting litigation on multiple fronts.

In order to better understand the delays in updating the national energy efficiency standards as well as the DOE’s attempts to rectify them and the impact that pursuing discretionary actions is having on DOE’s ability to catch up, please provide the following information no later than September 17, 2020:

⁷ <https://oag.ca.gov/system/files/attachments/press-docs/2020%2008%2010%20Notice%20of%20Intent%20to%20Sue%20DOE%20re%20Missed%20Deadlines%20FINAL%20SI%20GNEED.pdf>

⁸ Id.

⁹ <https://www.nrdc.org/sites/default/files/notice-doe-standards-20200810.pdf>

¹⁰ Id.

¹¹ <https://www.govinfo.gov/content/pkg/FR-2020-08-13/pdf/2020-15750.pdf>

¹² <https://www.govinfo.gov/content/pkg/FR-2020-08-13/pdf/2020-15749.pdf>

¹³ <https://www.govinfo.gov/content/pkg/FR-2019-07-16/pdf/2019-14545.pdf>

¹⁴ See Note 7.

¹⁵ See Note 9.

1. For each of the 26 categories of appliances or equipment standards overdue for a review, please briefly describe what the status of DOE's proposed ruling is.
 - a. If comments have been received by DOE on the proposed ruling, please also describe DOE's position on the ruling, and what the estimated timeline is for the final ruling.
2. For each of the 26 categories of appliances or equipment standards overdue for a review, please estimate when DOE plans to send each proposed rule to the Office of Management and Budget for its review.
3. Please explain why DOE is pursuing discretionary actions to exempt classes of products from existing standards instead of focusing those resources on rectifying DOE's noncompliance with the review schedule prescribed in EPCA.
4. Please explain why DOE has been able to propose new exemptions from the standards for clothes washers, clothes dryers, and dishwashers, but has been unable to complete a timely review of the current standards for these three products.
5. Please provide a flow chart or timeline that shows the steps in DOE's process for reviewing standards for covered products and equipment, along with how long DOE expects each step to take.

Energy efficient appliances save American households billions of dollars in energy bills every year, create hundreds of thousands of jobs, and greatly reduce air pollution. The Department of Energy plays an indispensable role by ensuring that as energy efficiency technology improves, baseline consumer appliance energy efficiency improves as well. We urge the Department to fulfill this role, and thank you for your attention to this matter.

Sincerely,

Margaret Wood Hassan
United States Senator

Benjamin L. Cardin
United States Senator

Dianne Feinstein
United States Senator

Martin Heinrich
United States Senator

Mazie K. Hirono
United States Senator

Edward J. Markey
United States Senator

Bernard Sanders
United States Senator

Jeanne Shaheen
United States Senator

Tina Smith
United States Senator

Chris Van Hollen
United States Senator