

STOP UNAFFORDABLE DISHWASHER STANDARDS ACT

APRIL 10, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mrs. RODGERS of Washington, from the Committee on Energy and Commerce, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 7700]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 7700) to prohibit the Secretary of Energy from prescribing or enforcing energy conservation standards for dishwashers that are not cost-effective or technologically feasible, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 7700, the “Stop Unaffordable Dishwasher Standards Act” was introduced by Representative Langworthy (R-NY) on March 15, 2024. The legislation would prohibit the Secretary of Energy from prescribing or enforcing energy efficiency standards for dishwashers that are not technologically feasible and economically justified, that are likely to result in additional net costs to consumers, or that are not likely to result in a significant conservation of energy.

BACKGROUND AND NEED FOR LEGISLATION

Congress enacted the Energy Policy and Conservation Act (EPCA) in 1975 with the goal of increasing domestic energy production and supply, reducing demand, encouraging more efficient use of energy, and to improve energy security.¹ EPCA authorized the Department of Energy’s (DOE) Appliance and Equipment Standards Program in 1975. The program sets minimum energy efficiency standards for approximately 60 product categories. These standards were initially nonbinding targets until 1978 when Congress amended EPCA and authorized the Secretary of Energy to set binding standards through regulations. Title III of EPCA established the requirements for standards that remain in effect today. For a new standard to be promulgated, DOE must find that the standard would be cost-effective, technologically feasible, and result in significant conservation of energy.

Pursuant to EPCA, the DOE is required to follow specific statutory criteria for prescribing new or amended standards for covered products and covered equipment. Covered products include refrigerators, kitchen ranges and ovens, water heaters, dishwashers, clothes washers and dryers, television sets, general service incandescent lamps, and showerheads.² Covered equipment includes, but is not limited to, electric motors and pumps, commercial refrigerators, automatic commercial ice makers, walk-in freezers, and commercial clothes washers.³

Under EPCA, DOE is required to review energy efficiency standards of covered products no later than six years after the issuance of a final rule. DOE is required either to publish a determination that the standard does not need amending or to issue a Notice of Proposed Rulemaking (NPR) including a new proposed standard.⁴ The DOE may only propose a new standard if the new standard results in a significant conservation of energy, is technologically feasible, and economically justified. EPCA also includes a provision which categorically prohibits any new or amended standard if the Secretary finds, by preponderance of evidence, that the standard is likely to result in the unavailability in the United States in any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States at the time of the Secretary’s finding.⁵ This provision pro-

¹ 42 U.S.C. § 6201.

² 42 U.S.C. § 6292(a).

³ 42 U.S.C. § 6312.

⁴ 42 U.S.C. § 6295(m)(1).

⁵ 42 U.S.C. § 6295(o)(4).

hibits DOE from setting efficiency standards that would sacrifice the availability of a product or any desired product characteristics.

The Committee finds that the DOE has continuously ignored the consumer protections built into the underlying statute, EPCA, when setting efficiency standards. As a result, the DOE's excessive standards have increased the cost of appliances, undercut appliance product quality, and jeopardized consumer choice. The Committee has found that multiple recently proposed and finalized rules will not save a significant amount of energy and are not cost-effective. On May 19, 2023, the DOE's Office of Energy Efficiency and Renewable Energy issued a Notice of Proposed Rulemaking (NOPR) for dishwasher efficiency standards.⁶ According to the Biden administration's own analysis under the proposed rule, it would take more than twelve years for the proposed efficiency upgrades to breakeven. Further, the existing energy and water requirements for dishwashers are already compromising product quality. As a result of existing efficiency requirements, it now takes more than two cycles to clean a load of dishes. According to the DOE's own analysis, the proposed rule would save consumers \$17 dollars over the life of the appliance. The estimated life of a dishwasher is 15.2 years, which breaks the savings down to \$1.12 dollars annually.⁷

The Committee finds these numbers violate the rulemaking framework prescribed in EPCA, which requires the implementation of new standards to be technologically feasible, economically justified, and result in a significant conservation of energy. The NOPR is so stringent it would negatively impact desired product characteristics, rendering it in violation of EPCA. In fact, in January 2024, the U.S. Fifth Circuit Court of Appeals determined the Biden administration's dishwasher rule did not adequately consider appliance performance when setting new efficiency standards.⁸ Because this administration has continuously proposed efficiency standards that violate EPCA, the Committee believes that this legislation is necessary to prevent the DOE from prescribing or enforcing energy efficiency standards for dishwashers that are not technologically feasible and economically justified, that are likely to result in additional net costs to consumers, or that are not likely to result in a significant conservation of energy. The Committee finds the DOE continuously downplays and ignores the consumer protections in EPCA and prescribes standards that run contrary to the statute's original intent. This legislation is necessary to protect consumers from Federal mandates that increase costs, fail to result in significant energy savings, are not technologically feasible, or eliminate performance features or product choices.

COMMITTEE ACTION

On September 13, 2023, the Subcommittee on Energy, Climate, and Grid Security held a hearing on a discussion draft of H.R. 6192. The title of the hearing was "Keeping the Lights On: Enhancing Reliability and Efficiency to Power American Homes." The purpose of H.R. 6192 was to amend the Energy Policy and Conservation Act (EPCA) to reform the Department of Energy's (DOE's) procedures for issuing energy efficiency standards by prohibiting the

⁶ 88 FR 32,514.

⁷ 88 FR 32,516.

⁸ *State of Louisiana v. Department of Energy (DOE)*, (5th Cir. 2024).

Secretary of Energy from prescribing any new or amended energy conservation standard for a product that is not technologically feasible and economically justified. H.R. 6192 informed the development of H.R. 7700. The Subcommittee received testimony from:

- Gene Rodrigues, Assistant Secretary for Electricity, Office of Electricity, U.S. Department of Energy;
- David Ortiz, Director, Office of Electric Reliability, Federal Energy Regulatory Commission;
- Kevin Messner, Executive Vice President and Chief Policy Officer, Association of Home Appliance Manufacturers;
- B. Robert Paulling, President and Chief Executive Officer, Mid-Carolina Electric Cooperative on behalf of the National Rural Electrical Cooperatives Association;
- Ben Lieberman, Senior Fellow, Competitive Enterprise Institute; and,
- Andrew deLaski, Executive Director, Appliance Standards Awareness Project.

On March 6, 2024, the Subcommittee on Energy, Climate, and Grid Security met in open markup session and forwarded a discussion draft of H.R. 7700, without amendment, to the full Committee by a record vote of 15 yeas and 10 nays.

On March 20, 2024, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 7700, without amendment, favorably reported to the House by a record vote of 25 yeas and 21 nays.

COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during the Committee consideration:

**COMMITTEE ON ENERGY AND COMMERCE
118TH CONGRESS
ROLL CALL VOTE # 32**

BILL: H.R. 7700, Stop Unaffordable Dishwasher Standards Act

AMENDMENT: A motion by Chair Rodgers to order H.R. 7700 favorably reported to the House, without amendment (Final Passage).

DISPOSITION: **AGREED TO**, by a roll call vote of 25 yeas to 21 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Rodgers	X			Rep. Pallone		X	
Rep. Burgess	X			Rep. Eshoo		X	
Rep. Latta	X			Rep. DeGette		X	
Rep. Guthrie	X			Rep. Schakowsky		X	
Rep. Griffith	X			Rep. Matsui		X	
Rep. Bilirakis	X			Rep. Castor		X	
Rep. Bucshon	X			Rep. Sarbanes		X	
Rep. Hudson	X			Rep. Tonko		X	
Rep. Walberg	X			Rep. Clarke		X	
Rep. Carter	X			Rep. Cárdenas		X	
Rep. Duncan	X			Rep. Ruiz		X	
Rep. Palmer	X			Rep. Peters			
Rep. Dunn	X			Rep. Dingell		X	
Rep. Curtis	X			Rep. Veasey		X	
Rep. Lesko	X			Rep. Kuster		X	
Rep. Pence	X			Rep. Kelly		X	
Rep. Crenshaw	X			Rep. Barragán		X	
Rep. Joyce	X			Rep. Blunt Rochester			
Rep. Armstrong	X			Rep. Soto		X	
Rep. Weber				Rep. Craig		X	
Rep. Allen	X			Rep. Schrier		X	
Rep. Balderson	X			Rep. Trahan		X	
Rep. Fulcher	X			Rep. Fletcher		X	
Rep. Pfluger	X						
Rep. Harshbarger	X						
Rep. Miller-Meeks	X						
Rep. Cammack							
Rep. Obermolte							

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OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee held a hearing and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 7700 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, at the time this report was filed, the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to protect consumers from Federal mandates on dishwashers that (1) are not technologically feasible, (2) increase the cost of appliances, and (3) do not conserve a significant amount of energy.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 7700 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

RELATED COMMITTEE AND SUBCOMMITTEE HEARINGS

Pursuant to clause 3(c)(6) of rule XIII, the following related hearing was used to develop or consider H.R. 7700:

- On September 13, 2023, the Subcommittee on Energy, Climate, and Grid Security held a hearing on a discussion draft of H.R. 6192. The title of the hearing was “Keeping the Lights On: Enhancing Reliability and Efficiency to Power American Homes.” The purpose of H.R. 6192 was to amend the Energy Policy and Conservation Act (EPCA) to reform the Department of Energy’s (DOE’s) procedures for issuing energy efficiency standards by prohibiting the Secretary of Energy from prescribing any new or amended energy conservation standard for a product that is not technologically feasible and economically justified. H.R. 6192 informed the development of H.R. 7700. The Subcommittee received testimony from:
 - Gene Rodrigues, Assistant Secretary for Electricity, Office of Electricity, U.S. Department of Energy;

- David Ortiz, Director, Office of Electric Reliability, Federal Energy Regulatory Commission;
- Kevin Messner, Executive Vice President and Chief Policy Officer, Association of Home Appliance Manufacturers;
- B. Robert Paulling, President and Chief Executive Officer, Mid-Carolina Electric Cooperative on behalf of the National Rural Electrical Cooperatives Association;
- Ben Lieberman, Senior Fellow, Competitive Enterprise Institute; and,
- Andrew deLaski, Executive Director, Appliance Standards Awareness Project.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. At the time this report was filed, the estimate was not available.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 7700 contains no earmarks, limited tax benefits, or limited tariff benefits.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 provides that the Act may be cited as the “Stop Unaffordable Dishwasher Standards Act.”

Section 2. Prescribing and enforcing energy conservation standards for dishwashers

Section 2(a) prohibits the Secretary of Energy from prescribing or enforcing a new or an amended energy conservation standard for a dishwasher that is not technologically feasible or economically justified. Nothing in this section amends subsections (m), (n), or (o) of section 325 of EPCA.

Section 2(b) prohibits the Secretary of Energy from prescribing or enforcing a new or an amended energy conservation standard for a dishwasher that is likely to result in additional net costs to the consumer. Nothing in this section amends subsections (m), (n), or (o) of section 325 of EPCA.

Section 2(c) prohibits the Secretary of Energy from prescribing or enforcing a new or an amended energy conservation standard for

a dishwasher that will not result in a significant conservation of energy. Nothing in this section amends subsections (m), (n), or (o) of section 325 of EPCA.

Section 2(d) provides that the terms “covered product” and “energy conservation standard” have the same meaning as such terms in section 321 of EPCA (42 U.S.C. 6291).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not amend any existing Federal statute.

MINORITY VIEWS

H.R. 7700, the Stop Unaffordable Dishwasher Standards (SUDS) Act H.R. 7700, the “Stop Unaffordable Dishwasher Standards (SUDS) Act,” would prevent Americans from benefitting from the cost and energy savings made possible by the appliance standards set through the Energy Policy and Conservation Act (EPCA).

While H.R. 7700 is drafted to look like a consumer protection bill, this bill is designed to weaken the Department of Energy’s popular and successful energy conservation program. H.R. 7700 fails to acknowledge or account for the fact that EPCA already requires standards to result in significant energy conservation and be technologically feasible and economically justified.¹ The bills also does not specify when it would go into effect, potentially blocking enforcement of both recent and pending updated standards. H.R. 7700 also does not include definitions for any of its terms, leaving the door open for drastically different interpretations from administration. By failing to account for life cycle cost savings from dishwashers and failing to define “significant conservation of energy,” this bill creates a vague set of standards that would conflict with what already exists in EPCA.

H.R. 7700 also runs counter to a consensus agreement reached for dishwashers, in addition to other home appliances. In September 2023, home appliance manufacturers, along with energy efficiency advocates, came together to announce a consensus agreement on energy and water efficiency for dishwashers, refrigerators and freezers, beverage and wine chillers, clothes washers, clothes dryers, and cooking products.² As the Committee Report for H.R. 7700 acknowledges, the energy conservation standard for dishwashers is not yet finalized. It is not clear how H.R. 7700 would impact the finalization of dishwasher standards. The Department of Energy already has a robust process for engaging stakeholders in the development of conservation standards, and we strongly support this existing process.

In the Committee report for H.R. 7700, the Majority cites a Subcommittee on Energy, Climate, and Grid Security hearing on September 13, 2023 as the basis for H.R. 7700. This hearing, titled “Keeping the Lights On: Enhancing Reliability and Efficiency to Power American Homes,” did not include testimony on H.R. 7700. As a result, the Committee did not receive any expert witness testimony on the need for the bill or its effects on a not-yet-finalized rule.

¹ Congressional Research Service, *The Department of Energy’s Appliance and Equipment Standards Program* (Feb. 2022) (R47038).

² Association of Home Appliance Manufacturers, *Agreement on Home Appliance Efficiency Standards Will Preserve Consumer Features and Deliver Remarkable Energy Savings* (Sept. 13, 2023).

Energy conservation standards are popular. Three out of five Americans support stricter energy efficiency standards for appliances and buildings.³ Additionally, the Biden Administration's past and planned energy efficiency actions will save Americans \$570 billion over the next 30 years.⁴ We believe that the energy conservation program should be strengthened, not weakened by vague and duplicative statutory language.

For the reasons stated above, we oppose H.R. 7700.

FRANK PALLONE, Jr.,
Ranking Member.

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³*Attitudes on Natural Gas Bans Aren't Changing Much—but Support is Rising for Strengthened Energy Efficiency Standards*, Morning Consult Pro (Apr. 27, 2023).

⁴Department of Energy, *DOE Announces Efficiency Standards to Save Americans More Than \$1 Billion Annually in Utility Bills* (July 28, 2023) (press release).