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HOME APPLIANCE ENERGY EFFICIENCY STANDARDS UNDER THE DEPARTMENT OF ENERGY - STAKEHOLDER PERSPECTIVES

WEDNESDAY, JUNE 8, 2016

House of Representatives,

Subcommittee on Energy and Power,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to call, at 9:35 a.m., in Room 2123, Rayburn House Office Building, Hon. Ed Whitfield [chairman of the subcommittee] presiding.

Present: Representatives Whitfield, Olson, Latta, Harper, McKinley, Johnson, Long, Flores, Mullin, Hudson, Rush, McNerney, Tonko, Castor, Sarbanes, Welch, and Pallone (ex officio).

Staff Present: Will Batson, Legislative Clerk, Energy and Power, Energy and the Environment; Tom Hassenboehler, Chief Counsel,

Energy and Power; A.T. Johnston, Senior Policy Advisor; Ben Lieberman, Counsel, Energy and Power; Tim Pataki, Professional Staff Member; Annelise Rickert, Legislative Associate; Chris Sarley, Policy Coordinator, Environment & Economy; Dan Schneider, Press Secretary; Dylan Vorbach, Deputy Press Secretary; Jeff Carroll, Minority Staff Director; Jean Fruci, Minority Energy and Environment Policy Advisor; Rick Kessler, Minority Senior Advisor and Staff Director, Energy and Environment; John Marshall, Minority Policy Coordinator; Jessica Martinez, Minority Outreach and Member Services Coordinator; Alexander Ratner, Minority Policy Analyst; Tim Robinson, Minority Chief Counsel; Andrew Souvall, Minority Director of Communications, Outreach and Member Services; and Tuley Wright, Minority Energy and Environment Policy Advisor.

Mr. Whitfield. I would like to call the hearing to order this morning, and I want to thank our panel of witnesses for being with us. I am going to introduce you right before we -- right before you give your opening statements, so I will just introduce you individually at that time. I would like to recognize myself for 5 minutes for an opening statement.

Today's hearing is entitled "Home Appliance Energy Efficiency Standards." Since 1987, we have had energy efficiency standards for certain appliances. It came about because back in 1975, there was a Federal Energy Policy Act that established that format. The Reagan administration was sued because it was not being implemented, and as a result that lawsuit, we now found ourselves in about the fifth or sixth gyration of these energy efficiency standards, which apply to almost anything that plugs into the wall in your home, whether it is an air conditioner, refrigerator, washer, dryer, furnace, oven, dishwasher, water heater, lighting, whatever it might be. And the argument was initially that you would save energy bills over time. Because of the efficiency, you would use less electricity, and the small amount of additional cost, you would end up saving money.

Now, some people today are questioning that because we are, as I said, we are about the fifth, sixth, or seventh round of these efficiency standards, and some people say that you reach a point of diminishing returns, and some people say that the additional costs now

is at such a rate that you really don't have any savings over the long term because the energy efficiencies are simply not that great.

Now, other people say that is not the case. And of course, additionally, now, everybody is talking about global warming, and so there is additional emphasis being placed on this because of that.

One of the problems that we have is, in America, we feel like we are doing more than any other country in the world on these types of issues. I was reading an article the other day that said there are 3 billion people in the world who use open flames to cook today, and in the developing world, by 2040, they expect that 65 percent of energy consumption will come from the developing world.

We also hear a lot today about people being concerned about the cost of living. And we know that in California and New York, they are trying to raise the minimum wage, and many people are urging that we raise the minimum wage. Some people agree with that and some people don't, but it is interesting that those strong advocates for raising the minimum wage, they don't want to consider the additional cost caused by regulations. And it is one thing to say, okay, we need to raise the minimum wage, but to low income, middle class family, if these appliances are going to cost additional money, what does that mean to their pocketbook?

And then, we are even hearing now from some of the appliance makers that some of these new appliances really don't work as well as the old

ones, and so it is a situation where I think no one really expected that the Department of Energy and this administration would be as aggressive as they have been on so many different fronts.

Now, the good news was that in 1975, when they were considering these efficiency standards, they were supposed to consider that the technology was really feasible and that there was an economic justification for it. But today, that is beginning to be blurred, and we know certainly at EPA, when they consider -- they certainly don't consider whether it is technologically feasible or economically justified.

So if we wanted to have a more balanced approach, what we are trying to do is hear from people who are involved in this on a daily basis because the American public, when they go to the appliance store to buy an appliance, they don't understand all about this efficiency, they just know what the price is, and then some people are telling them, well, you going to save money even though it is a lot more because the electricity will go down, and other people make the other argument.

So one of our objectives today is to just try to get a better understanding of what is the reality of this, and that is why we are here. So I want to thank all of you for joining us, and at this time, I would like to introduce the distinguished gentleman from Illinois, Mr. Rush, for his opening statement.

Mr. Rush. Good morning. I want to thank you, Mr. Chairman, for

holding today's hearing on the "Home Appliance Energy Efficiency Standards Under the Department of Energy - Stakeholder Perspectives," and I want to welcome, Mr. Chairman, all of our witnesses before the subcommittee here today.

Mr. Chairman, since there are DOE standards that we are addressing here today, I think that it would definitely benefit the members of the subcommittee to also hear from the agency directly, and I hope that we can invite them to testify on this issue at a near date in the near future.

Mr. Chairman, historically, energy efficiency has proven to mean the low hanging fruit that has brought both parties together legislatively, while also making our country safer, more secure, and more attentive to the impacts of climate change.

Indeed, the story of energy efficiency, Mr. Chairman, is one that is filled with success stories that really help prepare our country forward by making us more independent and more secure, while also reducing the cost of energy, both in our pocketbooks, and its impact to our environment. In fact, Mr. Chairman, by DOE's own estimation, American families save close to $63 billion as a result of their energy bills going down, and this is a result of these appliance standards that we are considering just in the year 2015 alone.

The agency also forecast, Mr. Chairman, that standards issued since 2009 will save the American consumer over $53 billion in utility

cost, and decrease common emissions by 2.3 billion metric tons by the year 2030.

Mr. Chairman, in addition to the huge energy savings and the benefits to the environment, appliance and equipment standards also lead to additional investments in the workforce and the ultimate creation of jobs. A 2011 report by the American Council for an Energy Efficient Economy entitled, and I quote, "Appliance and equipment efficiency standards are a money maker and a job creator," end of quote, found that the efficiency standards led to net job creation in every single State. The study also found that by 2020, appliance and equipment standards will contribute up to 387,000 annual jobs to the U.S. economy.

Mr. Chairman, while almost every effort by DOE to establish or revise energy efficiency standards has been met with some type of opposition, traditionally, this issue has been pursued in what I will commend on both sides of this committee -- subcommittee on, they have been presumed in a bipartisan manner with contributions to the party put forward by our President's and my past congressmen, even though those congressmen and the White House had been under the control of both Republicans and Democrats. It is my hope, Mr. Chairman, that following today's hearing, we will ultimately get back to that type of collaboration and that type of cooperation on this issue.

Mr. Chairman, it is critically important that the Federal

Government maintains its leadership role of promoting, encouraging, and enticing interested stakeholders to continue with the progress that has already been made in efficiency technologies so that we can continue to keep moving the Nation's energy policy forward.

Mr. Chairman, I want to end by saying I look forward to today's hearing. I am looking forward to our expert witnesses on the successes and the challenges that are facing this Nation as it relates to energy efficiency appliance, and with that, I yield back.

Mr. Whitfield. The gentleman yields back. At this time I recognize the gentleman from Illinois, Mr. Shimkus for 5 minutes.

Mr. Shimkus. Thank you, Mr. Chairman, and welcome. It is important to hear from stakeholders because the stories that we weave here may not always really reflect the real world, and we are hoping that you will give us what is going on on the ground. And so I am going to weave a little story to put this all in perspective, too.

Congressman Bost and I met with a small manufacturer about 2 months ago, and their -- subject to a DOE enforcement case, and, of course, because of the enforcement case, they even told to stop selling a piece of equipment. This company spent several months trying to find out why a third -- they and a third party lab that tested the product, why they met the standard and why when DOE got their hands on it, they didn't meet the standard.

So DOE tested that the product, 7 months later, and not only -- and

I will weave the story why DOE came to a different conclusion, but it is also under a new regulation than when the product was originally produced. So here is this fraud in, catch-22 world in which you all have to try to live in to try to catch up, after a product has been manufactured, to a new regulation, and then face the heavy hand of the Federal Government.

So the company was not aware of section 2.11 because it was not included in the proposed rulemaking. It was two lines in a large rule previously represented as not materially altering efficiency measures. This piece of equipment did not pass the automatic test, but it did pass the manual test. So this is a piece of equipment that you can operate manually, or you can hook up a thermostat and operate automatically. It did meet the standards for the manual test. It didn't meet the test for the automatic.

DOE would never tell them why they failed the test until months later, even when they asked for transparency, show us your work, tell us what you are doing.

So this is a crazy world in which we live in. The Federal Government is there to help, not punish. The Federal Government is there to, if they want to have efficiency and they want to encourage movement forward, they should be incenting. They should not -- so this small company, it is a small company, has a proposed $241,000 penalty, because DOE is now saying that they knowingly, knowingly kind of jimmied

the efficiency standards where the equipment met the manual standard, didn't meet the automatic standard.

Of course, when you fall into this regime, you can't sell your product. It is banned from being sold until this conflict gets resolved. Small companies just can't survive this type of work. It would be best, as we hear, I am sure, similar stories about the struggles of maintaining it, businesses' goal is to help to raise capital, assume risk, hoping to get a return, and while they are doing that, they create jobs.

If the government -- we just want the government to be fair players in this system. If we are going to create these new standards, give industry a chance to meet them, and don't play games of delay by not working with the industry and then telling them why they failed to meet the standard, or changing the rules for automatic or manual-type systems. So I am really looking forward to the hearing. I think it is very, very important, and I have got questions, when we come to it, on -- to address the jobs debate, which I think people find pretty problematic that these are now causing the loss of jobs in our country, and I yield back my time.

Mr. Whitfield. The gentleman yields back. At this time I recognize the gentleman from New Jersey, Mr. Pallone, for 5 minutes.

Mr. Pallone. Thank you, Mr. Chairman. The Appliance and Equipment Efficiency Standards Program at the Department of Energy has

been incredibly successful over the years in reducing energy consumption and lowering consumers' energy bills. The program has also been beneficial to manufacturers, making energy saving products more ubiquitous and leaving the playing field -- leveling, I should say, the playing field nationally.

In fact, efficiency standards for consumer appliances and other products likely constitute the single most effective Federal effort to reduce energy consumption in the United States. According to the Energy Department, Americans save $63 billion on their utility bills last year because of these standards, and this has also resulted in avoiding 2.6 billion tons of carbon dioxide emissions, which would equal the annual level of emissions from roughly 543 million vehicles.

These figures are staggering and highlight the dual benefits of this important program. Consumers save money, and our environment is spared billions of tons of pollution every year. And all of this began with enactment of the Energy Policy and Conservation Act, EPCA, which was signed into law by Republican President Gerald Ford. I highlight "Republican." This apparently started a trend because with the exception of an amendment to the statute directing DOE to establish efficiency standards for consumer products under the Carter administration, every major expansion of the appliance efficiency standards program has been signed into law by a Republican president.

So while some of our witnesses and my colleagues on the other side

of the aisle may lament the long list of appliance standards proposed by the Obama administration, they should remember that, depending on your point of view, much of the credit or blame for the Obama standards can be traced back to two laws signed by President George W. Bush, the Energy Policy Act of 2005, and the Energy Independence and Security Act of 2007.

And while the 2007 Act was passed by a Democratic Congress, the Energy Policy Act of 2005 was borne out of a fully Republican Congress and authored by the former Republican chairman of this committee. I don't know why I have to keep saying "fully Republican Congress." That is obviously not what I like, but the fact of the matter is that, that most of this legislation was done by Republican Congress and Presidents, and this underscores an important fact: For the past 40 years, energy efficiency has been a bipartisan issue where Republicans and Democrats have come together to reduce energy consumption and save consumers money.

Times have changed, obviously. Certainly, there are a few Republicans who still understand the importance of energy efficiency. Mr. McKinley has worked with Mr. Welch to demonstrate that bipartisanship in this area is still alive to some degree. Yet regrettably, that seems to be the only Republican support for major efficiency legislation in this Congress. Consider the recent House vote to go to conference on an energy package that would actually

increase consumption by rolling back efficiency. Again, how times have changed.

Could the efficiency-standard-setting process use improvement? Of course it could, because there is always room for improvement, despite a revisionist view that disputes over efficiency standards are a new development, the fact is that the standard-setting process has always yielded some controversy from one industry participant or another. But these controversies were generally worked out, and the results were better products, more efficiency, and often useful changes to the standard setting process.

My concern is that improvement simply may not be possible in this current Congress. Last year, when we were working to forge a bipartisan compromise on furnace standards, the less and forthright positions taken by certain stakeholders made me question the sincerity of the so-called reform efforts. Perhaps it is just a matter of perspective. What some stakeholders view as minor tweaks, look an awful lot to me like a thorough gutting of the standards program.

So ultimately, I believe a serious, successful energy policy for our Nation must address demand, not just supply. Improving the use of the resources we have to get more from less is common sense, and that is why efficiency has traditionally been a concept that brought parties together. And Mr. Chairman, I just hope that one day we will see that again. It doesn't seem like today is the day. So thank you.

I yield back.

Mr. Whitfield. The gentleman yields back, and that concludes the opening statements on our side.

So at this time, our first witness will be Ms. Sofie Miller, who is the senior policy analyst at the George Washington university Regulatory Studies Center. So Ms. Miller, thanks for being with us, and you will be given 5 minutes, and just make sure the microphone is on and it is up close to you so we can hear every single word that you say. And you are recognized for 5 minutes.

STATEMENTS OF SOFIE E. MILLER, SENIOR POLICY ANALYST, THE GEORGE WASHINGTON UNIVERSITY REGULATORY STUDIES CENTER; JOSEPH M. MCGUIRE, PRESIDENT AND CEO, ASSOCIATION OF HOME APPLIANCE MANUFACTURERS; ELIZABETH NOLL, LEGISLATIVE DIRECTOR, ENERGY AND TRANSPORTATION, NATURAL RESOURCES DEFENSE COUNCIL; KEVIN J. COSGRIFF, PRESIDENT AND CEO, NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION; THOMAS ECKMAN, DIRECTOR, POWER DIVISION, NORTHWEST POWER AND CONSERVATION COUNCIL; AND STEPHEN YUREK, PRESIDENT AND CEO, AIR CONDITIONING HEATING AND REFRIGERATION INSTITUTE

STATEMENT OF SOFIE E. MILLER

Ms. Miller. Well, thank you very much, Chairman Whitfield and

Ranking Member Rush and members of the subcommittee for inviting me to share my expertise today. I appreciate the subcommittee's interest in the Department of Energy's energy conservation program as well as opportunities for Congress to improve it.

I am the senior policy analyst at the George Washington University Regulatory Studies Center, where I analyze the effects of regulation on public welfare, including the effects of DOE's energy efficiency standards on consumers specifically.

Through my research, I have identified ways in which these standards can harm consumers rather than benefiting them by limiting the products available and removing from the market appliances that might best suit their needs.

DOE's energy efficiency standards regulate appliances used in most households such as dishwashers, air conditioners, and refrigerators, and as a result, they affect almost all U.S. consumers. These standards increase the prices of common appliances in exchange for reducing consumers' energy and water bills in the future.

While DOE does estimate that consumers receive large net benefits from this tradeoff, it does not take into account the diversity of Americans, or that U.S. households have very different needs and preferences when it comes to household appliances. As a result, one-size-fits-all energy efficiency standards can deprive consumers of the ability to make purchases that best suit their circumstances

and constraints, and in such cases, these regulations are a cost to consumers rather than a benefit.

For example, efficient dishwashers or clothes dryers save consumers more money in the long term the more frequently they are used and tends not to benefit households with lower frequency of use, which includes couples or single residents, such as the elderly. In proposing energy efficiency standards for clothes washers, DOE calculated large benefits by estimating that a household operates its clothes washer 392 times per year or more than once a day on average.

And while this might be realistic for large families or households with small children, it does not represent every household. In fact, even after accounting for their lower energy bills, the standards ended up costing the nearly 70 percent of American households that use clothes washers less frequently than six times per week. And to illustrate from personal experience, a very efficient dishwasher made sense for my mother, who has nine children and used to run the dishwasher as much as four times per day, if you can imagine that. But my current household of two, we run the dishwasher twice a week, and in our case, it is not likely that a more efficient and more expensive appliance is going to be worth the investment.

In addition, efficiency standards are particularly costly for low income households. Wealthier Americans can afford to wait years or even decades to recoup the higher cost of an efficient appliance while

poor Americans with less certain streams of income have higher opportunity costs. DOE calculates high benefits by using a relatively low time value of money, which field studies find represents wealthier households.

Changing DOE's model to reflect the actual time value of money to low and median income households shows that they encourage large net costs as a result of efficiency standards. When a paycheck has to cover rent, food, and other necessities, a very efficient appliance may not be affordable even if it does reduce electric bills in the future. Many families simply cannot borrow at the 3 percent rates that DOE assumes.

But energy cost savings are not the only justification for these standards, as we have heard, as more efficient appliances can also reduce environmental emissions, but these environmental benefits are typically quite small relative to the cost of the standards. In fact, the costs outweigh these benefits by a factor of three to one. By looking at environmental benefits alone, DOE would not be able to justify the standards that it has set for most appliances.

In sum, the payoff from more efficient appliances will vary depending on a household's income, size, and other characteristics such as geographic location. It is perfectly rational for individual households to prefer to purchase different appliances, including those that do not meet DOE's standards. By taking away those choices and

preventing households from buying the appliance that best suits their individual needs, DOE is imposing a cost on consumers and not a benefit. This is particularly true for low and median income Americans and the elderly who bear the highest costs of appliance efficiency standards.

Thank you all for your time. I look forward to your questions.

[The prepared statement of Ms. Miller follows:]

******** INSERT 1-1 ********

Mr. Whitfield. Thank you, Ms. Miller, very much for your opening statement. And our next witness this morning is Mr. Joseph McGuire, who is the president and CEO of the Association of Home Appliance Manufacturers. Thanks for being with us, and you are recognized for 5 minutes.

STATEMENT OF JOSEPH M. MCGUIRE

Mr. McGuire. Chairman Whitfield, ranking member --

Mr. Whitfield. And turn your microphone on and get it close.

Mr. McGuire. Okay. Mr. Chairman and Ranking Member Rush, and members of the subcommittee, thank you for the opportunity to testify this morning. AHAM's membership includes more than 150 companies throughout the world, and employs tens of thousands of people in the United States. Our members produce more than 95 percent of the household appliances shipped for sale in this country. I don't think there is any disagreement at this table that the appliance standards and ENERGY STAR programs have been successful.

Energy efficiency gains across core major appliance categories are dramatic and undeniable. For example, the most commonly purchased modern refrigerator uses the same amount of electricity as a 50-watt light bulb. A new clothes washer uses 73 percent less energy than it did in 1990 and half the water.

I also want to make very clear that our industry has been a strong supporter of these programs and has been involved in numerous rulemakings and legislative solutions to strengthen and improve the programs. In 1987, I personally led the 200-plus organizations that initiated and supported the National Appliance Energy Conservation Act. We strongly support a system of Federal standards and State preemption, and we do not propose a rollback of any standards.

But while these programs are both successful, they are both in need of modernization to recognize the success achieved and to establish a framework for policies and programs focused on meaningful additional efficiency gains. Yes, there should still be Federal standards that guarantee energy savings nationwide, by absent technological breakthroughs, a process geared towards continually ratcheting up efficiency standards, particularly for products that have already been subject to multiple revisions, does not make sense for the environment, the consumer, or the economy. But this will not happen under the current standards construct.

Reform legislation is needed. H.R. 8 is a practical step along that path offering modest, sensible changes to EPCA that will essentially require DOE to follow the regulatory procedures it had agreed to with the very organizations that advocated for EPCA reform in 1987, but more is needed. Today, AHAM is calling on Congress to take further steps to modernize our national energy efficiency law by

ending mandatory serial rulemaking and permitting amended standards only when justified by quantifiable metrics, including a list of covered products for which no further rulemaking is needed, absent technological game changers; requiring DOE to meaningfully consider cumulative regulatory burden on product manufacturers; mandating procedures regarding transparency and public engagement, no more black box analyses; applying the Administrative Procedure Act to the ENERGY STAR program.

There have been more than 30 standards and amendments that apply to the AHAM products under the program, and there have also been numerous test procedure revisions accompanying these standards. The reality is, though, that for many product categories, the relentless march of sequential rulemakings is not justified. That is because opportunities for additional energy savings beyond those already achieved are severely diminished as products are nearing maximum efficiency under technology. Further standards are likely to increase cost to consumers and manufacturers beyond an acceptable level, and for some products, reduced energy use will likely result in degraded performance and functionality.

We saw this in the flawed proposed dishwasher rule last year whose consumer payback period exceeded the product's life and resulted in products that could not clean dishes. DOE, to its credit, retracted the proposal, but it shouldn't take a national uproar for this to

happen. The rule never should have been proposed.

As for ENERGY STAR, the program has drifted from its original mission of energy efficiency into other areas beyond its expertise and authority. This drift must be considered in concert with the reality that the success of the program has essentially made it mandatory in the marketplace.

Congress needs to bring this program under the much more traditional procedures and specific criteria of the Administrative Procedures Act, which applies to virtually every other program EPA administers. It is also important that Congress make clear that ENERGY STAR is about energy efficiency only, not about EPA's ideas regarding quality, functionality, sustainability, other nonenergy factors.

Our ultimate objective is to improve the U.S. regulatory environment in measurable ways that foster fair, more predictable, more open, and more efficient regulatory landscape. As an industry, we will continue to live up to our responsibility to provide consumers with life-enhancing products that deliver superior performance and energy environmental benefits. Our industry is very competitive, which drives not only innovation, but also reduce product costs through hundreds of millions of dollars in productivity improvements. That is why home appliance prices don't keep up with the CPI, not because of appliance standards.

Productivity investments hide the fact that changing product

design and materials to meet energy standards adds costs. Implying that the huge efforts in time and capital investments to achieve productivity somehow make energy efficiency free is a great misunderstanding.

Mr. McGuire. Mr. Chairman and members of the subcommittee, in summary, we call on Congress to modernize EPCA so that it addresses current circumstances by recognizing the diminishing energy savings opportunities for many products, evaluating cumulative regulatory burden and the actual impact of past rules in improving transparency in stakeholder engagement. Thank you for the opportunity to testify. I will be happy to answer any questions.

[The prepared statement of Mr. McGuire follows:]

******** INSERT 1-2 ********

Mr. Whitfield. Thank you, Mr. McGuire. And our next witness is Ms. Elizabeth Noll, who is the legislative director for Energy and Transportation at the Natural Resources Defense Council. Ms. Noll, thanks for being with us, and you are recognized for 5 minutes.

STATEMENT OF ELIZABETH NOLL

Ms. Noll. Good morning. Mr. Chairman, members of the subcommittee, thank you for the opportunity to share the perspective of the Natural Resources Defense Council on national energy efficiency standards set by the Department of Energy for many household appliances and commercial products. This program sets dependable, minimum levels of energy efficiency that all Americans can count on to reduce their utility bills, the carbon pollution that harms human health while promoting innovation and new job opportunities. My name is Elizabeth Noll, and I am the legislative director for the Energy and Transportation Program at NRDC.

NRDC has long supported energy efficiency standards, and we are far from alone. We have successfully worked alongside many groups, including NEMA, AHRI, and AHAM here today, and was reiterated in a recent op ed we authored with the National Association of Manufacturers. And let's not forget, the initial law establishing standards was signed by President Ronald Reagan, then expanded and

improved with broad bipartisan support in law signed by both Presidents George H.W. and W. Bush. And why is there such strong support for efficiency standards?

This program is wildly successful, delivering tremendous consumer and national benefits. It has broad and bipartisan support founded on a long history of collaboration and consensus building, and by all accounts, there is still huge potential for even more energy and financial savings now and in the future.

To my first point, by every single measure, the program provides huge benefits. In fact, national appliance standards are the second biggest energy saving policy in U.S. history, second only to vehicle fuel economy standards. Appliance standards are saving the typical U.S. household about $500 per year on their utility bills. Last year alone, American consumers saved $63 billion. And thanks to standards already on the books today, consumers and benefits will save almost $2 trillion on their energy bill due to improved appliance and equipment sold through 2035.

Because these standards are cutting American energy consumption, it also reduces the need to burn polluting fossil fuels to run those appliances and equipment. Last year alone, national appliance standards helped the U.S. avoid emissions of 300 million tons of carbon dioxide. That is equivalent to the annual pollution from about 63 million cars.

As I noted earlier, three Republican presidents have signed laws supporting energy efficiency standards, and for the first time since the early 1990s, the Department of Energy is up to date with its legal deadlines that Congress enacted. In the spirit of consensus building and collaboration, the agency has done more than ever to open up avenues to increase stakeholder participation and collaboration. Of the 42 standards finalized since 2009, almost a quarter stemmed from consensus agreements negotiated with industry support.

And those that aren't negotiated, go through a normal rulemaking process, which includes multiple opportunities for input from industry. As a result, the vast majority of American energy efficiency standards go into effect without controversy.

As noted in other testimony today, manufacturers much prefer a single national standard over a State-by-State patchwork of requirements. Consumer groups, State governments, business groups, utilities, all have engaged constructively and support the program. One might ask, Are there more energy consumer and environmental savings to be achieved? Emphatically, yes. One example involves the biggest energy and pollution saver from a single standard in the agency's history which was completed in January for commercial rooftop air conditioners, heat pumps, and warm air furnaces, and it represents the third revision to this standard. This standard is expected to save 15 quadrillion BTUs of energy over a 30-year period, which is nearly

equivalent to the amount of energy in all of the coal burned to generate electricity in the United States in one year.

A forthcoming report by the Appliance Standards Awareness Project and the American Council for an Energy-Efficient Economy finds that the savings potential for Federal standards that will be eligible for update within the next 8 years exceeds what has been accomplished over the last 8, and innovation by our leading manufacturers is likely to open up new opportunities for savings that we cannot even contemplate today.

Without standards, cost-effective energy efficiency opportunities will be lost leading to unnecessarily high energy bills, increased energy consumption, more harmful pollution, and uncertainty from manufacturers. There is no doubt that this program works and will continue to deliver huge consumer and environmental value now and into the future. Thank you for the opportunity to share my views, and I look forward to your questions.

[The prepared statement of Ms. Noll follows:]

******** INSERT 1-3 ********

Mr. Whitfield. Thank you, Ms. Noll, for your statement.

At this time, I would like to introduce Mr. Kevin Cosgriff, who is the president and CEO of the National Electrical Manufacturers Association, and thanks for being with us, and you are recognized for 5 minutes.

STATEMENT OF KEVIN COSGRIFF

Mr. Cosgriff. Thank you, Mr. Chairman, Ranking Member Rush, and members of the subcommittee for having us today. I am the president and CEO of the National Electrical Manufacturers Association, some nearly 400 members that provide virtually everything in the electrical world, and I appreciate this opportunity to talk about EPCA with the subcommittee.

We have a central position in this dialogue given that 20 of the 63 covered products are made by NEMA members, and an additional 30 covered products contain components made by NEMA members.

I have three main points that I would like to make today. First, as has been stated, there are diminishing energy savings returns to multiple rulemakings on the same product. That is not saying that we don't believe in energy savings. We are just saying there is diminishing returns on multiple rulemakings that ought to be considered.

Future energy efficiency opportunities should include looking at energy use systems, not simply components or individual products. And lastly, serial regulation does, over time, limit consumer choice.

First, on diminishing returns. EPCA was written 40 years ago, and many of the covered products have since achieved then unimagined levels of efficiency. Several products have been through two or more different rulemakings, and the EPCA statute requires the DOE to determine whether higher standards are warranted on every single covered product at least every 6 years. This applies even to products that have already reached the stage of regulatory maturity, as it were, that is to say, the products for which cost-effective efficiency improvements have essentially reached their limits. Cost-effective energy improvements have reached their limits.

There are two components to this situation we believe warrant congressional attention. We should retire several and mature covered products, and by that, I mean retire at the current level of efficiency, not backslide, and that stakeholders, including government, should be given sufficient time to analyze the impact of a previous regulation before a new rulemaking cycle kicks off. Rarely has a product entered the market before the next rule process kicks off. There has not been enough time to really analyze the information in the real world to see if it works.

My second point is that energy efficiency opportunities should

begin to looking at energy use systems. EPCA was crafted for individual products. The challenge ahead, I think, is to build on this past industry success with a new, more holistic approach to these savings opportunities. Individual products are increasingly interconnected and operate as a system, rather than singularly. We suggest Congress consider this opportunity when discussing energy savings.

Think energy savings from a building versus energy savings from a lamp. Demands from -- my third point is serial regulation impacts consumer choice. Demands from global competition, government regulation, and all important consumer preference requires manufacturers to sprint to remain competitive. While our members are accustomed and good at running this race, and endless regulatory environment erects hurdles that they must repeatedly clear each and every time to remain viable. They are the definition of having skin in the game.

One tendency of EPCA, however, is that over time, it will trend towards eliminating certain products from the market. Under this type of regulatory scheme, there will be fewer and fewer choices offered to consumers. We assert that markets should drive and, in fact, are driving the energy efficient economy. One choice that markets can do without, however, is availability of products entering the United States that do not comply with U.S. law and policy. This deprives

consumers of energy efficient benefits, and disadvantages law abiding manufacturers. This is an area where the Federal Government especially could be helpful with policing up these imports.

In conclusion, electrical manufacturers' contribution to the energy efficiency economy has been diligent, and I believe commendable. Throughout this effort, NEMA has made constructive proposals to Congress, to DOE, and working with other stakeholders to advance energy efficiency where we believe it was justified and where the savings were significant. We have resisted regulation for the sake of simply doing something more when the benefits are insignificant, Or the costs were just too high. The 40-year-old model of regulating energy use in single products has, in many cases, done its duty, but its diminishing returns are exacting an increasing cost for our industry and higher price for our consumers.

The legislative overhaul that builds on the success of the last 40 years, but allows us to all keep the energy efficiency economy moving forward is what we wish to support. We urge Congress to seize this unique opportunity. Thank you. I look forward to your questions.

[The prepared statement of Mr. Cosgriff follows:]

******** INSERT 1-4 ********

Mr. Whitfield. Thank you, Mr. Cosgriff.

At this time, our next witness is Mr. Thomas Eckman, who is the Director of the power division of the Northwest Power and Conservation Council. Thanks for being with us, and you are recognized for 5 minutes.

STATEMENT OF THOMAS ECKMAN

Mr. Eckman. Thank you, Mr. Chairman and Minority Leader Rush. My name is Tom Eckman. I am the Director of Power Planning for the Northwest Power and Conservation Council. I will start with a very quick thumbnail of who we are. Since there are no northwest delegates here, I thought you might -- it might be important to figure out why I am here representing the northwest.

The Northwest Power and Conservation Council was established under a congressional authorization under the Northwest Power and Conservation Act of 1980, public law 96-501. We are an interstate compact authorized by you folks here in Congress to do power planning for the northwest. So we, for the States of Oregon, Washington, Idaho, and western Montana, we produce a 20-year power forecast of future needs and a resource plan to meet those needs for electricity, and our statutory requirement is that we are to treat energy efficiency as one of the resources we can rely on to meet those needs.

Over the past three decades, 3-1/2, 35 years, we produced seven different power plans. We are to update those plans every 5 years, so we started back in 1982 with the first plan, and called for cost-effective energy efficiency to be a major -- a major component of that planning process as directed by Congress.

Over that past 35 years, energy efficiency has been a very significant contributor to the northwest economy and to meeting our needs. In summary, since 1980, the northwest region has saved enough electricity through codes and standards, utility programs, to be equivalent of roughly six Seattles in annual electricity consumption, or more than one and one quarter times the actual consumption of the State of Oregon, so it is a significant contributor. It roughly represents our second largest resource in the region. It has met 55 percent of low growth since 1980, so we really believe in energy efficiency that is cost effective.

The reason I am here is to talk to you about the role that Federal standards have played in making that happen and what they look like going forward. Over the past 35 years, Federal standards have basically produced one-fifth of the total savings that we have been able to achieve. Energy code is about 20 percent, and the remaining through rate pair-funded utility programs. One-fifth of the savings turns out to be worth about $1 billion in annual savings out of the -- on an annual basis, and saves about 5 million metric tons of carbon off

of our system. And we have a very clean system because about half of our power comes from hydroelectricity. So that is a significant component of us. It is about 10 percent of our total carbon emissions on an annual basis.

So on a going-forward basis, we looked at the Federal standards that have been adopted between 2009 and 2014. Those standards alone will reduce our forecast low growth from 1.1 percent to .8 percent, about 30 percent reduction in low growth. Again, saving significant consumer cost for new generation and saving consumer pain and agony from carbon emissions. So we are here to support those standards because not only have they been a huge benefit to us, but we have been involved in the negotiations that led to not only the Federal standards, but many of the standards that have been adopted since 20 -- since 1987.

I am a member of the Appliance Standards Rulemaking Advisory Committee that was appointed by DOE to facilitate better communication between manufacturers and advocates for energy efficiency to begin to develop more transparent and open processes to engage in rulemaking. And that -- since the advent of that committee, which was basically formed at the behest of the Department itself because it understood that it could do a better job of rulemaking in the negotiations, and it could, in a standard notice and comment process, it can't always do a better job, but in some instances, particularly Elizabeth noted the appliance rulemaking for air conditioners and package rooftop

systems, those consensus agreements between manufacturers and advocates have produced better standards, more regulatory certainty on behalf of the manufacturers, and greater compromise and facility to implement standards on behalf of the manufacturers.

So I think those -- that particular improvement was not envisioned in the original statute, but as a regulatory process that DOE implemented on a voluntary basis and has improved immeasurably the transparency of the standards development process on a going-forward basis, and I think that we can talk more about that in the time that you have questions for me. I will stop there. Thank you.

[The prepared statement of Mr. Eckman follows:]

******** INSERT 1-5 ********

Mr. Whitfield. Thanks, Mr. Eckman.

And our next witness, and last witness, is Mr. Stephen Yurek, who is the president and CEO in the Air Conditioning, Heating and Refrigeration Institute. So thanks for being with us, and you are recognized for 5 minutes.

STATEMENT OF STEPHEN YUREK

Mr. Yurek. Thank you, Chairman Whitfield, Ranking Member Rush, and members of the subcommittee for inviting me to testify on this important topic. I am Steve Yurek, and I am the president and CEO of the Air Conditioning, Heating and Refrigeration Institute. AHRI has 315 member companies that manufacture more than 90 percent of the residential, commercial, and industry air conditioning, space heating, water heating, and commercial refrigeration equipment sold and installed in North America.

Our members employ over 100,000 people in manufacturing, and more than 1 million American jobs when you include those involved in distribution, installation, and maintenance of our equipment. I want to make it clear that our industry has a long record of leadership when it comes to innovation, energy efficiency, and environmental stewardship. In fact, the equipment our members produce is 50 percent more efficient than it was just 20 years ago. But even as we innovate

and develop the next generation of highly efficient equipment, we always have in mind the needs of our customers who are, after all, the people who buy and use our equipment.

We have three main concerns with the current statutes that I would like to discuss today. First, the authority Congress set forth for setting efficiency standards, the Energy Policy Conservation Act, is 40 years old and has not been undated to reflect new technologies and economic realities.

Two, in addition to the impact in our industries, consumers are paying a heavy price, both in real monetary costs and in comfort and safety. When new equipment costs more than consumers can afford, they find alternatives, some of which compromise their comfort and safety while saving less energy, and in some cases, actually using more energy.

Finally, American jobs are being lost, in part, because of the promulgation of ever more stringent deficiency regulations, and the worse thing is, DOE admits that these regulations cost jobs.

While the Clinton administration issued six major efficiency rules during his 8 years in office, the current administration issued eight major efficiency rules in 2014 alone. There are real consequences from this rush to regulate. Yes, complying with these rules cost my member companies millions and millions of dollars, but what is far more important, it should be far more worry to Congress, is that American jobs are being lost, and consumers, who are already

feeling financially squeezed, are being forced to pay more for products they rely on in their everyday lives from comfort cooling and heating, to refrigeration, to hot water.

EPCA requires that all efficiency standards meet the twin tests of technically feasible and economically justified, and yet, DOE has issued rules that use unrealistic assumptions in its analyses to justify higher efficiency levels. I will give you a couple of examples.

For commercial boilers, DOE estimates the new standard would save just eight-tenths of a percent more energy than the existing standard, but would cost manufacturers up to $24 million to comply. For residential boilers and commercial refrigeration equipment, DOE justified the economic impact of the higher efficiency levels by using the assumption that no matter how much the product increases in price, demand for that product would never decrease.

Every time DOE issues a new rule, it issues a press release estimating the rule's benefit in cost savings for consumers and energy savings for the Nation based on theoretical models. DOE has never looked back to see what the energy savings actually were, or if consumers actually ever benefited from spending more money, and the current law does not even require such a review.

Finally, DOE projects future job losses in several of its rulemakings for our products. For example, in two separate

rulemakings for different types of commercial air-conditioning units, DOE noted small business manufacturers would need to redesign their entire private offering or leave the market. DOE acknowledged a potential scenario in which a rulemaking for commercial refrigeration equipment could cause all existing production to be moved outside of the United States, resulting in a loss of over 3,500 jobs.

Changes to EPCA should be implemented in phases with the collaboration of all stakeholders. I urge all members of the upcoming conference committee to ensure that the technical corrections in H.R. 8 remain part of the final energy bill. Broader EPCA reform should stress flexibility, enhance technical and economic justifications, and the process should be overhauled to maximize transparency and stakeholder engagement. Congress should require DOE to convene stakeholders to discuss and recommend a new regulatory framework.

AHRI is ready to work with Congress, DOE, and other stakeholders on ways we can, together, fix and update this 40-year-old law to create a new, more open process, conserve energy, help manufacturers remain competitive in the global marketplace, and benefit all consumers. I appreciate the chance to appear today, and I look forward to answering any questions you might have and to working with you as we move forward on this important issue.

[The prepared statement of Mr. Yurek follows:]

******** INSERT 1-6 ********

Mr. Whitfield. Well, thank you, Mr. Yurek, and thank all of you very much for your testimony. We appreciate it, and I recognize myself for 5 minutes of questions.

Ms. Miller, the George Washington University Regulatory Studies Center, how old is the center?

Ms. Miller. It began in 2009.

Mr. Whitfield. 2009.

Ms. Miller. That is right.

Mr. Whitfield. And how long have you been there?

Ms. Miller. Since 2012.

Mr. Whitfield. 2012.

Ms. Miller. Uh-huh.

Mr. Whitfield. So if you were running for public office or you going to some rotary club speaking somewhere around the country, could you categorically say that these efficiency regulations are saving consumers money because the reduction of electricity cost exceeds the additional cost of the new appliance?

Ms. Miller. I would say that these standards have very different effects on different households based on some of the characteristics that I mentioned, and also some that I state as well in my written testimony.

For instance, if you live in Texas, maybe it is more beneficial for you to have an efficient air conditioner but do you care how

efficient your furnace is, how often are you ever going to use it?

Mr. Whitfield. Right.

Ms. Miller. In that case, you may not actually save any money by getting an efficient furnace. So I would say that different situations --

Mr. Whitfield. So geographical area would have an impact on it?

Ms. Miller. Absolutely.

Mr. Whitfield. And then you indicated the use of the product, obviously, would have an impact on it. And you mentioned, I think, that some elderly people who maybe use it less would have less benefit from it as well. Is that correct?

Ms. Miller. That is correct, and the Department used that in its analysis.

Mr. Whitfield. So you know, we -- all of us make comments about, well, this is going to save money and so forth, but it is certainly possible, and in many instances, I would assume that low income people and elderly are harmed more by these regulations perhaps than they are benefited. Would you agree with that?

Ms. Miller. That seems to be the case, and the Department also does acknowledge that there are negative impacts on those groups in its own analyses.

Mr. Whitfield. Okay.

Ms. Miller. It is not a view that is outside the mainstream.

Mr. Whitfield. Well, you know, originally this started because of the Arab oil embargo. I think the reasoning that this all started was because of trying to conserve the use of energy. And certainly that has changed today because we have an abundance of energy in America, but today, it has become more of a climate change issue. That is what people talk about. Well, we have got to stop. We have got to be more efficient, less CO2, and so forth.

Now, Mr. McGuire, you and Mr. Cosgriff and Mr. Yurek all touched on this, a need for reform. And you all made some pretty strong statements. You said that sometimes the product is not going to be as effective. It is going to cost more to consumers. It is going to reduce consumer choice. And one comment I would also make on H.R. 8, which is our energy bill, one of the most controversial aspects of it related to the process that the DOE goes through in adopting these new standards.

For example, they really are not transparent on it. The data analysis is not really available until they are getting ready to notice it, and so all we were saying in this one provision, which was like we were turning the world upside down was, we want DOE to sit down with the manufacturers, the people who make these goods and have a more open and transparent discussion with them. I mean, you would agree with that, right?

Mr. McGuire. We would agree with that, Mr. Chairman, and

actually, that process that you are describing used to be used by the Department of Energy where manufacturers would have an opportunity to test a product under a new standard, or to even employ a new test procedure before you could determine whether a standard was appropriate.

But what we have seen in the last several years is because so many rulemakings are going on at the same time, that DOE has not been able to go through this very thorough process of let's do a test procedure and make sure that works. A test can be repeatable and reproducible before we set a standard so that companies can see if you can test a product. It is very -- manufacturers spend an enormous amount of resources on compliance to these standards. The testing is very complicated.

Mr. Whitfield. Right.

Mr. McGuire. These products are more sophisticated than they used to be, so you want to get that right. You don't want to --

Mr. Whitfield. Right.

Mr. McGuire. -- mess that up. And what has happened is the process has become conflated, and it is very difficult to understand what is happening sometimes.

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[10:33 a.m.]

Mr. Whitfield. Mr. Cosgriff, do you agree with that basically?

Mr. Cosgriff. I would agree with that, it made me think, as Mr. McGuire was answering your question, the product cycle of some of the products entering the market now in our area, LED lamps as an example is in many cases, less than a year. So if you miss one of these hurdles I refer to, you have missed a product cycle. That is a very big deal.

Mr. Whitfield. Yeah.

Mr. Cosgriff. And for a small or medium size company of which there is many making LEDs, that could be fatal.

Mr. Whitfield. Well, I have a lot of other questions, but my time has already expired. Mr. Rush, you are recognized for 5 minutes.

Mr. Rush. I want to thank you again, Mr. Chairman. Ms. Noll, I want to thank you for your interesting testimony so far.

There is a question that I have and there is an argument that while the efficiency standards have been very valuable in reducing energy costs and consumption, many of these standards have already reached their maximum efficacy and we cannot squeeze any more juice from the grapes in a certain manner of speaking. Do you agree with the statement that many of these appliances are as efficient as they can reasonably

come, or is there -- and there is no room to move forward with these new standards. Or do you believe that there is some more cost effective standards, and measures, and pathways that we could implement in order to greater have more efficiency than cost savings?

Ms. Noll. Thank you Congressman Rush. Yes, I do think that there are more cost effective pathways to achieve greater energy savings that have yet to come. And I would begin by, as I stated in my opening remarks, the rule that was finalized just last year for commercial rooftop units represented the largest energy savings single standard in agency history. And that was the third time that that standard had been revised.

And while this is going to deliver huge consumer and environmental value, it was nowhere near the most energy efficient technology that is commercially available. So it just suggests that there is still room to improve.

And I would also note that, as I mentioned in my opening remarks, that the forthcoming report from ACEEE and the appliance standards awareness project, looked at the rules that will be up for revision in the next 8 years and has shown that the energy savings opportunity from those rules will exceed that of which, of those that were finalized from the last 8 years. Again just further suggesting that -- and some of those standards will be ones that will be products that have already had standards and have gone through revisions in the past.

And I would finally just say that standards increase innovation and that technological innovation creates new product features, new design opportunities. Our refrigerators today have more features than ever before. And that also could unlock opportunity for increased energy savings and that could form the baseline for future revisions to standards in the future.

Mr. Rush. Yes, ma'am. I want to shift my focus, my office has had many conversations regarding energy efficiency standards for appliances and their impacts on low-income families. One of the arguments that we hear quite often is that the cost of complying with new energy efficiency standards will have a disproportionate impact on low-income consumers. How do you respond to this charge?

And secondly, are there any benefits to low-income households if industry is forced to comply with the most current energy efficiency appliance standards?

Ms. Noll. Thank you. I guess I would begin by saying I know that the impacts on low-income customers is a priority of yours as it is for NRDC. And minimum efficiency standards set a dependable level of energy efficiency that every American can count on. Our analysis suggests that appliance standards will save the average American household, including low-income households, $500 a year compared to before standards were set. So that is significant.

And I agree that low-income households pay -- a

disproportionately higher portion of their income goes to energy costs. A recent report by NRDC and ACEEE shows that energy efficiency is a key strategy for addressing and reducing that energy burden that low-income households face.

So I would say that is why groups like the National Consumer Law Center and Texas ROSE and other consumer advocacy groups engage and are highly active in the standards setting process because of important benefits that it serves for the low-income populations that they support.

Mr. Rush. Thank you, Mr. Chairman. I yield back.

Mr. Whitfield. The gentleman yields back. This time I recognize the gentleman from Illinois, Mr. Shimkus for 5 minutes.

Mr. Shimkus. Thank you, Mr. Chairman. This is actually a very good panel. There really is more that unites us than divides us on this whole debate. And I think that is true across the board.

Ad first of all, for Mr. McGuire, Mr. Cosgriff and Mr. Yurek, you are saying that there is a need for some reform, but you are not claiming that there is a desire to jettison energy efficiency standards, are you?

Mr. McGuire. No.

Mr. Yurek. No.

Mr. McGuire. Not at all. We are supporters of the program --

Mr. Shimkus. Okay. I am going to go quickly, so Mr. Cosgriff.

Mr. Cosgriff. Absolutely not.

Mr. Shimkus. Mr. Yurek?

Mr. Yurek. No.

Mr. Shimkus. So this is an example of where we really can work together to get some sensible changes to affect folks like the narrative that I provided earlier today, there is a trap that people do fall into, from big Federal agencies, and the rolling out of regs, and as the fluorescent light bulb case, Mr. Cosgriff, that they get caught in a trap. You don't want to miss a cycle of putting a product on the shelves because for a small company that could be deadly.

So Ms. Noll, you did mention in the discussion with my colleague, Mr. Rush, that the confusing thing is we are not talking from a baseline of families. What is a family? What is the cost? I think Ms. Miller mentioned it, her cost in a two-family household is different than a family -- I am one of seven kids, nine in the family grew up -- a lot different costs, a lot different projected savings. Don't you think that if we are going to have this debate that the Department of Energy ought to help us define what is a family? What is a savings? And to have part of that transparency, Ms. Noll?

Ms. Noll. Thank you. I would say that the Department of Energy does take into account many perspectives.

Mr. Shimkus. Buy don't you think they should help define this so we can have a better, accurate discussion of what these savings are

and who they are -- this amorphous savings is being disputed by economists based upon real data and real numbers.

Ms. Noll. As many of the colleagues that I work with, we strive to find -- get better data on --

Mr. Shimkus. The question is, shouldn't the Department of Energy help us define their savings? The answer is they don't.

Mr. Yurek, following up on this question, don't you think they should do a better job, the Department of Energy should help us define savings and costs?

Mr. Yurek. Yes. I think the process, the DOE is in a bind in some ways by the statutory language of this 40-year old act and how they are required do the analysis. They are in a bind by the timeframe in which they need do all these rules. They don't have the time anymore because of all the rules that they are involved in, to do the deep analysis that they used to be able to do and confer with everybody.

And they also have the court order saying that they need to meet these deadlines so --

Mr. Shimkus. Okay. Let's go quickly to job losses you highlighted in part of your written testimony. Talk about the job loss, and shouldn't the DOE talk about that there is a loss of jobs? Especially as you get to this point of again as again my colleague, Mr. Rush, says here how much juice are you squeezing from the grape? And you identified that in your testimony.

Mr. Yurek. Yes. No, I think that is one of the economic analyses that needs to be done. I think they forget the purpose of this act is not to go to the maximum tech and maximum efficiency, it is to slowly raise the bottom so that everybody can purchase that equipment and have those savings.

There are other programs such as Mr. McGuire mentioned related to ENERGY STAR that are the pull, to get those other higher efficients, to get people to buy that equipment. What we are seeing now is that this program is being used to go to the max tech versus going the minimal level where people get savings and benefits but don't have the cost.

Mr. Shimkus. Aren't you asking for a return to a collaborative approach with the Department of Energy? Mr. McGuire?

Mr. McGuire. Yes, we are --

Mr. Shimkus. Mr. Cosgriff?

Mr. Cosgriff. More collaborative --

Mr. Shimkus. So I do have to applaud the DOE we have actually been pressuring them years and also the EPA to say tell us how that affects jobs. So in this most recent proposed rule March 12, 2015, this is what it says.

Some large manufacturers have already begun moving production to lower-cost countries. Short-term, U.S. job loss. This is the Department of Energy saying that. And an amended standard that necessitate large increases in labor content or that requires large

expenditures to retool facilities should cause other manufacturers to reevaluate production citing options.

What that means is, that if we squeeze too much -- my colleague Mr. Rush -- if we go too much, we lose jobs to overseas manufacturers and that would be unfortunate. Thank you, I yield back the balance of my time.

Mr. Olson. [Presiding.] The gentleman's time has expired. The chair recognizes the ranking member of the full committee, Mr. Pallone from New Jersey for 5 minutes.

Mr. Pallone. Thank you, Mr. Chairman.

Ms. Noll, from listening to some of the people sitting next to you on the panel and some of my colleagues on the other side, you would think that the standards process has suddenly become for more contentious than it used to be.

In my opening statement I talk about the fact that the standard setting process has always yielded some controversy from one industry to another. And that is not to say that complaints or controversies weren't always important or even valid. But I just see some contention as an inevitable part of any meaningful standard setting process no matter how well it functions.

So while not every standard can be negotiated, my sense is that there has been more consensus than ever before, and that every industry trade represented here today has been involved in and has likely

benefited from that consensus.

So my question is, do you agree with me that there actually seems to have been more consensus in the standard setting process over the past 8 years, and of the rules finalized in the last 8 years, what percentage of those rules has been established through consensus negotiations, if you could?

Ms. Noll. Good morning. Um, yeah, it is interesting because I think about the number of roles and the number of negotiations that have taken place over the years, and there are so many to choose from. The last two revisions to home air conditioning standards went through a consensus process and landed an unnegotiated consensus outcome. And that is fantastic for consumers and the value that it is going to deliver to them for the environment as well.

So I think from my perspective I would say that the controversy is the exception and not the rule, you know, that we can demonstrate I think, as I said in my opening remarks, of the 42 standards that have been finalized since 2009, almost a quarter of those stemmed from joint consensus negotiations. And that is not to say that every rule needs to or can come from a consensus or a negotiation and those that didn't went through the normal rulemaking process. And with the exception of maybe a few standards have been without controversy and supported by stakeholders through the process and input.

So I would just encourage us not to characterize action as

controversy at this point.

Mr. Pallone. All right. Now I am a strong supporter of energy efficiency programs, and again I am confused by some of the claims being made by members of today's panel.

I find it difficult to believe that there are no more significant energy efficiency gains to consumer products unless you assume that we can improve upon our current technology or develop entirely new technologies that are more energy efficient.

For example, TV went from tubes, to liquid crystal displays, to plasma, to LED in a little over a decade. So are we truly done with refrigerators, dishwashers air conditions, furnaces, whatever?

Ms. Noll. Our experience has been no. I think in the latest refrigerator standard revision, this is the sixth time, including the State standards, that that had been revised. It represented about 20 to 30 percent improvement over the previous standard, and that is on par with other revisions, fully supported by manufacturers and stakeholders.

And I think we have seen that that trajectory has held true that refrigerators are now 75 percent more efficient, they have more product features, they are 20 percent larger and they cost half as much.

I think the lighting revolution that we have seen take place is another example of -- I don't think in 2000 we could have predicted the number of choices and the efficiency that we would get from LEDs

today. So I think that it is just a few examples of where this could be headed.

Mr. Pallone. All right. Several witnesses have referred to mandatory serial rulemakings. And my understanding of the law is that it mandates the review of the standard every 6 years. However, to my knowledge, the law doesn't require that the standard be updated every 6 years.

So just to clarify, would you answer yes or no to the following questions, okay? Does the law require a standard be reviewed every six years? Yes or no.

Ms. Noll. Once it has gone through its statutory requirements, then yes, it is required to be reviewed every 6 years.

Mr. Pallone. All right. Does the law mandate that a standard be updated every 6 years regardless of any other fact pattern?

Ms. Noll. No.

Mr. Pallone. Does the DOE have to determine whether a rulemaking is likely to result in significant savings before requiring a standard be updated?

Ms. Noll. Yes.

Mr. Shimkus. And does DOE have to determine whether rulemaking is likely to be technologically feasible and cost effective before updating a standard?

Ms. Noll. Yes.

Mr. Pallone. Okay, thanks a lot. Thank you, Mr. Chairman.

Mr. Olson. The gentleman's time has expired the. The chair uses the privilege of the vice chairman to recognize himself for 5 minutes.

And a hearty Texas welcome to Ms. Miller, Mr. McGuire, Ms. Noll, Mr. Cosgriff, Mr. Eckman, and Mr. Yurek. In the interest of time I have one question about air conditioning.

Southeast Texas, my home, exists in a climate we call 95, 95. From early April to late September, it is 95 degrees Fahrenheit with 95 percent humidity. Until 1902 the only jobs in that region were picking cotton and guarding prisoners in big State prisons, that provided very, very slow low growth. And then Willis Carrier invented the air-conditioner in 1902. That single invention, combined with oil being discovered at Spindletop, in 1901 in Beaumont, and the 51 mile Houston ship channel being built, has put Houston on track to be the Nation's third largest city some time this decade.

Federal actions affecting air conditioning gets the attention of all Texans. Especially if two Federal agents are in conflict. We are seeing that situation now right now with air-conditioners. DOE is demanding higher efficiency standards for air-conditioners, while EPA is banning certain refrigerants and foam blowing agents from being used in air-conditioners.

My only question is for you Mr. McGuire and you Mr. Yurek, Mr. Yurek first, can companies comply with these conflicting

standards, can they comply with these, what are the challenges?

Mr. Yurek. First off, yes, they can comply with it, but how they comply with it is that it costs a considerable amount of money in the conflict between the two statutes going into effect in the needs to spend money on research and development. And then once that research and development is completed they need to then retool their plants. And so yes they can do it. It is going to cost. The big manufacturers that have the funds will have the ability to do it, it will be several of the small manufacturers that don't have the funds available that will go out of business either be acquired by the bigger ones or just leaving the area.

Mr. Olson. The big guys thrive, the small guys go away. Mr. McGuire, you thoughts? Can they survive, can they work with these conflicting regulations from different departments?

Mr. McGuire. The industry can comply, but the problem is it takes a certain amount of time to do that. And the EPA decisions, proposals on refrigerants is not being coordinated with DOE on the efficiency standards with the vast majority of greenhouse gas emission avoidance benefits come from the appliance standards not producing the changing the refrigerants.

We have to deal with the fact that the safety standards in the U.S. do not allow the type of refrigerants we have to go to yet in the amounts necessary. That requires a safety risk assessment test that

companies are doing. So it takes an amount of time, sequence and investment for this to happen. And it would be prudent for the two agencies to talk about this and reach a decision that makes sense for the environment and for the people that are making these products.

Mr. Olson. Follow-up question, sir, do you believe the Obama administration is meeting their own goals set with the executive orders to minimum the cumulative impact of these regulations? These burdensome regulations, they said let's make that lower. Does this achieve that or is this in violation of that?

Mr. McGuire. We do not believe the DOE has done a proper analysis to the cumulative regulatory burden on manufacturers when they are doing their appliance efficiency standards, because they are not taking into account the costs in investments that are made for previous versions that haven't been recouped, as well as investments that have to be made in alternative refrigerants.

Mr. Olson. Mr. Yurek, you thoughts, sir?

Mr. Yurek. I agree with Mr. McGuire in that that proper analysis has not been done. And the burden on manufacturers is not being considered, and actually has been ignored when raised in some of the rulemakings related to commercial refrigeration equipment where we did raise EPA changing the refrigerants that can be used at the same time efficiency regulations went into effect.

And DOE said, well, they haven't changed it yes so we are using

the current refrigerant. They issued the rule, 6 months later the EPA banned those refrigerants. There are two different implementation dates, one is 2016 for refrigerants and 2017 for the energy efficiency standards. You have to redesign twice in two different periods of time.

Mr. Olson. Thank you, my time is expired. One word of warning, don't mess with Texas air conditioners.

The chair recognizes the gentleman from California, Mr. McNerney for 5 minutes.

Mr. McNerney. I thank the assistant chair. Mr. Cosgriff, I believe that you stated that many of the imported products are not held to the same standards as American made products. Is that right?

Mr. Cosgriff. I didn't say many. I said that we should be on guard to make sure that nonqualified products enter the stream of commerce inside the United States.

Mr. McNerney. So that must be happening then.

Mr. Cosgriff. I am sorry?

Mr. McNerney. Is that happening are products entering the American --

Mr. Cosgriff. We receive information from our manufacturers routinely that they find products in the stream that don't, by objective standards, meet the standards of the United States of America.

Mr. McNerney. So U.S. consumers are buying products made

overseas that are potentially less efficient and cost American jobs at the same time?

Mr. Cosgriff. They might be, yes, sir.

Mr. McNerney. How could we remedy that situation?

Mr. Cosgriff. Well, NEMA in the past has worked with commerce in the area of counterfeiting to take our expertise from our member companies and make it available -- Customs, excuse me, Customs and Border Security to make it available to their agents so they can though what they are looking for, to be able to identify what constitutes a valid third-party certification mark, what might be a counterfeit and other tells that you might see in products.

Mr. McNerney. So this is an enforcement issue it is not a trade rules issue?

Mr. Cosgriff. Mostly enforcement, yes sir.

Mr. McNerney. Okay, very good. Mr. Eckman, please elaborate a little bit if you would on how the rulemaking process could be improved, the transparency of the rulemaking process could be improved?

Mr. Eckman. I will go through a little bit of history so the context is there.

In the mid-2000s DOE staff directed their consulting staff to sit down with advocates and manufacturers to help negotiate a white good standard with the AHAM folks so the technical staff supporting DOE's rulemaking was appraised and involved in those negotiations that were

informal at the time. They weren't authorized by DOE, we were handling those on the side.

And that led to another process on electrical transformers where both DOE staff and their consultants got involved. And finally DOE established under the Federal Administrative Procedures Act a negotiated rulemaking group called the ASRAC of Appliance Standards Rulemaking Advisory Committee, which now oversees a series of requests that might come in from parties that want to enter into negotiations through a regulatory process, through regulating negotiation as opposed to rulemaking through a standard comment process.

And that has opened I think the doors to more consensus agreement, to the agreement on major refrigeration products, the HVAC equipment, pumps and electrical transformers all came from those kinds of negotiations, where there is a great deal more transparency interaction with the manufacturers, with advocates staff and consultants because they can get down and talk face to face, roll the sleeves up in a meeting not in a very formal hearings type process.

And I think that has improved both the outcomes and the feelings that come out of those outcomes about we agree that we can't get everything we need but the compromise works for all of us. And that process to me is really central to and advancing the rulemaking process.

Mr. McNerney. Thank you. Mr. Cosgriff again, I am going to ask do you believe that the current standards are room to drive more

innovation?

Mr. Cosgriff. Do I believe the current standards have?

Mr. McNerney. Can drive more innovation?

Mr. Cosgriff. Can drive more innovation. I think the manufacturers are driving innovation. I think competition is driving innovation and I think standards have a part in that, but I wouldn't overstate what they are part is.

So if a product is at the low end of efficiency, then the standards are a welcomed boost. If a product like a transformer is approaching 99 percent efficiency, I am not sure what their accomplishing.

Mr. McNerney. Thank you. Ms. Noll, could you give some examples of efficiency improvements that are still possible?

Ms. Noll. Yes, I would be happy to. I think as we look at some of the products that are still -- that will be revised in the next 8 years, there is standards for equipment and household appliances that have seen standards before, water heaters is a likely -- a potential opportunity for increased savings.

As Mr. Cosgriff just mentioned distribution transformers, I mean they may be reaching a high level of efficiency but all of the electricity that is produced in America goes through transformers. So even half of a percent of improvements there will be a significant national benefit.

So I do think that there is opportunities that still exist to

improve through the standards process.

Mr. McNerney. Thank you, Mr. Chairman.

Mr. Olson. The gentleman's time has expired the chair recognizes the gentleman from Ohio Mr. Latta for 5 minutes.

Mr. Latta. Well, thanks, Mr. Chairman. And I would also like to echo I think this is a great panel today and really appreciate you all being here. I am kind of an expert, my wife and I in the last 6 weeks just bought a washer and dryer and the refrigerator is next.

But in northwest Ohio we do make HVAC, we make dishwashers, we make dryers, we make washing machines, we also make waffle irons, we make large mixers and we also have a large freezer plant right in northwest central Ohio. So we have a lot of things going on and it is very important to our economy.

But Mr. McGuire if I could start with you, you have been particularly critical of the proposed standards for dishwashers. Can you explain what is wrong with the standard in terms of substance of the proposed rule as well as the process by which it has come about?

Mr. McGuire. Well the proposed dishwasher standard from last year, first of all, it required a 20-year pay back to the consumer for a product with useful life was 13 years. It reduced the amount of water that a dishwasher uses in a cycle from five gallons to three. And the proposed rule did not go through any type of performance or consumer testing before it was issued, we did not get a chance to do that, we

normally do in these rulemakings. So --

Mr. Latta. Let me interrupt. Now why didn't you get to be part of that?

Mr. McGuire. DOE just didn't do that part of the process. They just went right to the rule without that type of testing. So once it was proposed, we did the testing and we demonstrated to DOE and others that dishes were not clean. In multiple product manufacturers products, it did not clean the dishes. So the utility of the product was affected, the consumer payback was not there and the energy savings was minimal, less than a quad, 7 percent of one quad.

Now the current dishwasher standard that is in place today, that has a pay back to the consumer of 12 years, so that was already at the limit in terms of economic sense. There was no need for this fifth dishwasher standard. So it messed up the product and it did not make sense for the consumer to buy such a product, so our view is that there is something wrong when the process spits something out like that. That has to be a product or a category where you don't do another rulemaking unless some quantifiable measure can show that there is going to be a real significant savings in energy that won't harm the consumer.

But under the current process it is very difficult to get DOE's assumptions and other things that go into their analyses done by their contractors and the national labs. So that is part of the process

change we would like to see.

Mr. Latta. Now just out of curiosity, when you were doing this testing, when you were going from five gallons to three gallons, how much did that cost the industry? And what did that cost the consumer in the end run then?

Mr. McGuire. Well, how much did it cost of the consumer for --

Mr. Latta. So when you were doing the testing, when it was going from the five gallons down to the three gallons, you said, and I was just curious is there a cost to the industry that you had to do --

Mr. McGuire. Oh, sure.

Mr. Latta. -- and then what was overall -- I assume it would go back to the consumer?

Mr. McGuire. Well these tests that we did on the proposed rule, this standard didn't go into effect. Those costs were absorbed by the companies. There is thousands of dollars to do these tests. Once a standard is in effect, in order to prove compliance with the standard, you have to test the product before it is submitted to the marketplace and then a regular routine testing market surveillance that our industry actually does some of that testing to police ourselves and provide some information to the government.

Those tests are very expensive and the cost of compliance -- the tolerances are very, very tight so manufacturers invest a lot to make sure their products meet the standards and the tests are sophisticated.

So it is a costly part of being an appliance manufacturer. And those costs are going to the product like any other costs and are passed on to the consumer.

Mr. Latta. Thank you.

Mr. Yurek, I am concerned about the economic affects that the administration's aggressive regulatory agenda has.

It is my understanding that DOE is implementing rules that set new standards for individual components and your members residential consumer products such as the new standard for the efficiency of furnace fans. How does regulating a specific component in a large heating or cooling system add to the cost of a furnace or air conditioning system?

Mr. Yurek. We have a lot of concern. I think looking at this 40-year old law, that it is dealing with products, and in some instances it is going into the components of those products and pieces of equipment, which is the wrong direction. Really what we should be looking at is how these products are put into the house or into the building and looking at an overall systems approach to efficiency to really look at the gains. Because if you start dictating and regulating the components, be it the compressor, now they are looking at regulating the fans that go into the HVAC, air conditioning and furnaces, and others, you are dictating how these products are designed. And once they are put into that product, they might have -- and we have shown in a case, in a proposal out with the California

energy commission when they were doing this with the air handlers, what they were proposing on the efficiency level for fans, actually used more energy when applied in the air handler than being able to design the overall product and the energy use of that air handler.

And so we just want to make sure that this is done rationally and the current law doesn't give DOE that type of authority to look at the broader picture. And I think we just need to step back and say, it is 40 years old, let's look at it and make some changes and make it better so we can actually get some energy savings out in the field and have consumers be able to afford the equipment.

Mr. Latta. Thank you very much, Mr. Chairman. My time has expired, I yield back.

Mr. Olson. The gentleman's time has expired. The chair recognizes the gentleman from Vermont Mr. Welch for 5 minutes.

Mr. Welch. Thank you very much. This is a great panel, I appreciate it.

A couple of things, we don't have a bill yet, right? So this is kind of an abstract discussion. And I thought Mr. Shimkus kind of laid out the potential for cooperation here. I do like the notion of collaboration in the process, because you have got folks at DOE who are doing their best to implement efficiency standards, you have got real world folks that are the manufacturers that have to contend with the very practical issues of implementation.

Ms. Noll, you're okay with that, right?

Ms. Noll. Yes --

Mr. Welch. I think standards are incredibly important but I don't think they are everything. Mr. Cosgriff, you mentioned that the standard in some cases especially at the low end does spur the innovation. But if you have got something that is highly efficient then it is not going to accomplish all that much. A lot of what you are saying sounds very reasonable to me.

The jobs issue, I think, is not so much the jobs issue, I mean air-conditionings by the way one the most outrageous loss of jobs is with Carrier leaving Indiana to go down to three buck an hour wages in Mexico, which I think is pretty appalling but has nothing to go do with standards, particularly since whatever it is is manufactured at three bucks an hour has to meet the standards before it can come back into this country, right? So you know, you have a got to level the playing field, as long as the standards apply everywhere.

But I do as a strong, strong supporter of efficiency standards with Mr. McKinley, who has got a lot of experience in this, I feel that those of us who believe standards can work have to be extremely diligent in trying to address practical concerns as they come up. That makes sense to me.

So I have heard the industry folks saying you are not for unraveling them, you want them to be more practical. I am not asking

a lot of questions because I don't think there is that much disagreement and we don't have a bill. But one of the things I think that would be helpful as part of this process would be to get the DOE folks in here and ask them what are some of perhaps the congressionally imposed burdens we are imposing on them where you are saying that they have so many rules they have to deal, they don't have the time and the space.

The bottom line here, collaboration I think is really good. I think standards are absolutely essential. I mean, the energy efficiency savings that we have had have been tremendous in -- if they are done right it can save consumers money, it is not without impact. We all understand that. There was a cost associated with requiring that automobile manufacturers install seat belts, that cost more money when you bought a car. Most of us think, it is about time.

Mileage standards have been tremendous, that is a cost that has really had an impact on the average mileage in our fleet. So really what I am asking for is to take up Mr. Shimkus on his observation that this is an area where there is some opportunity for us to cooperate, but that means not letting it get adversarial. If there is acknowledgement even from the people who are affected by this in ways that they think are a little too aggressive, to have some interaction with DOE, and us to try to figure out what are the process improvements we can make in order to get the benefits of regulation.

I mean, I will just ask the industry people Mr. McGuire and

Mr. Eckman or Mr. Yurek, is that a problem for you the approach I am taking about?

Mr. McGuire. It is not a problem. We have used consensus many times in the past, but we think consensus ought to be to change the law so that the process requires these improvements and they are not discretionary.

Mr. Welch. Well, that has to be a discussion -- there is no specifics here, all right? So we don't have a bill in front of us.

Mr. McGuire. There are some process improvements in the energy bill in conference, but the ones that we are talking about the major reforms you are right, there is not --

Mr. Welch. Well, I tell you what would be helpful for me if each of you did a 1-page bullet point assessment of concrete things that you think in the process would improve it. Then we can assess it, have a discussion, we can talk to DOE, how does that work, would it improve it or not? What is the down side? We are just having this real abstract discussion here.

And regulations I think are really important, and it can be really beneficial, so if they are not done right can have a lot of downside to them with no upside.

Ms. Noll, how about you do you, what I am saying --

Ms. Noll. I would be happy to do that. I would also encourage us to look at some of these where the process is working. And I think

dishwashers is an example of that where DOE heard from industry and Congress granted them the authority to look at consumer utility and performance criteria for economic justification --

Mr. Welch. That would be helpful.

Ms. Noll. As an example of how it is working and how it is serving to protect consumers and also ensuring a balanced both -- the impacts on manufacturers as well as the impacts on consumers and the environment and reducing our energy consumption.

Mr. Welch. That makes sense. What about you, sir?

Mr. Olson. The gentleman's time has expired. I am sorry, sir. We have to move on with votes coming up.

I recognize the gentleman from West Virginia, Mr. McKinley for 5 minutes.

Mr. McKinley. Thank you, Mr. Chairman. And let me just build a little bit on some of the remarks that have been made earlier about credentials. Peter Welch and I have had a wonderful working relationship, we both chair the efficiency caucus, we put language into the current energy bill that we are waiting to see what is happen in the Senate. We have been to the White House for the energy efficiency bills. So this is something I think he and I grasp fairly well with this.

Back when I was in private practice in engineering we designed some of the first LEED certified schools and office buildings in West

Virginia. I am working with Tonko over in energy efficiency with the turbines to create electricity to make that more efficient. So energy efficiency is one of the prime areas that I like to play with and can get involved in here.

But I get to a point, there are some vast differences and I want to play back on what my colleague and good friend Bobby Rush from Illinois was talking about, was the disparity of income when people were facing this, if you look at this, it poses a challenge for all of us. It really does for it.

If you look at Mississippi my colleague from Harper from Mississippi, their median family income $36,000 a year. In Mississippi. $36,000 a year, but in Maryland, it is over $70,000 per family income. So in those affluent States or neighborhoods, they make choices, they have choices. You will probably if we went through the motor vehicle licensing we would find they probably have more BMWs and Lexus cars there then we have in some other areas of the country or in neighborhoods.

So cars are going to be different because people have choices. We have housing, different pricing for housing because people have choices for that. We have health care. When you go to the exchanges under ObamaCare there are different exchanges so people have choices. But when it comes to their major consumer appliance, they don't.

For your air conditioning, your refrigerator, your range, your

dishwasher, your furnace all of these now have been mandated that this is the only one that they have available to them. I am troubled with that, because of the diversity of income, their capability of doing it, and don't tell me it is going to save my $500 a year, because we understand the pay back is so much longer on all of these.

So I am wondering is there a suggestion you all could make that might make it more palatable for people to be able to have a choice so that they are not confronted with this hard decision? I know of families that are trying to fix anything, their equipment -- to make it last as long as possible, because they know that they can't afford the cost of the new one. And so they are spending a lot of money in repairs because they don't have a choice. They know what the cost is. That air conditioning costs the same in Connecticut as it does in Mississippi, or that dishwasher.

So what would you suggest that we in Congress could do to maybe ameliorate some of these differences a little bit so that the poorer communities or States that have trouble, how can they afford to have this cost? Can some of you -- Okay, Mr. Yurek.

Mr. Yurek. Congressman, I think this is a really important issue. And I think it is bringing back the balance that was originally put out in the 40-year old law where it says, technically feasible and economically justified.

Right now the focus is too much on the technical feasibility in

saying, hey, my manufacturers manufacture products everywhere from the Federal minimum to very high efficiency. Yes, we can go to the high efficiency but we need to look at the cost. And I think it is bringing that balance back to that economic justification in saying this law is intended to raise that floor slowly.

People that have the incomes in Maryland and other places are going to purchase the things with all the different bells and whistles on that you are refrigerators, their dishwashers, their air conditioners and everything else. But there are a lot of people in this country when you look at the cost now of the minimum efficient air-conditioner, you are looking at $6,000 to $10,000 at a minimum, that is done in an unplanned time, because most of the time these units go out when it is the hottest day of the year, or the furnace when it is coldest day of the year.

And the Federal Reserve just had a study last week that said over 47 percent of the American people have less than $400 in emergency cash available to them. So what are they going to do? They need that comfort. In the wintertime they need the heat. A lot of times for medical reasons they need the cooling in the summer. And so it is bringing back that balance. Probably putting more of an emphasis on the economic justification.

Mr. McKinley. Thank you. My time expired, but I will ask can each of the six of you mind putting a paper together saying what would

you suggest that might be a solution to help out for families in depressed areas?

Thank you very much, I yield back.

Mr. Olson. The gentleman's time has expired. The chair recognizes the gentleman from New York, Mr. Tonko, for 5 minutes.

Mr. Tonko. Thank you, Mr. Chairman. Thank you to our witnesses.

Certainly we are citing a 40-year history here. And again to repeat what my colleague from Vermont indicated, we have to look at some of the trade situations too. Where offshoring of jobs might have helped some families retain those jobs and be able to afford these items. And this job loss thing I think is much more complex than just suggesting standards caused it.

Our energy efficiency standards have improved products that benefit all of our constituents. Many of these are not luxury goods but necessities found in nearly every home. We have heard support for national efficiency standards from manufacturers and consumers and we have heard from industries from States from environmental groups that there is consensus that this program has been a success.

I am certainly open to improving the program, but improvements cannot undermine the purpose of this program. And while we look for those improvements, we should not lose sight of the fact that this program is incredibly successful. While there have been a few contentious rules, it is my understanding that of the final rules issued

since 2009, almost one-quarter were the result of negotiating consensus agreements and only five have been subject to litigation.

So to our witnesses, do you agree many of these rules have been consensus driven?

Mr. Yurek. Mr. Chairman, yes. Most of them as Ms. Noll said, 25 percent of the rules in this administration have been through the consensus process. That means 75 percent of those 40 others have not. I think we all support and would encourage that negotiation consensus process because there is more of that give and take that Mr. Eckman talked about versus the notice in comment where you only have -- the adversarial is much more adversarial versus a negotiation and I think that is something we should look at.

Mr. Tonko. Okay. And I think it is worth noting that DOE has a history of working to improve the program especially around increasing stakeholder engagement dating back to the 1990s.

A few years ago DOE established as I understand the Appliance Standards Regulatory Advisory Committee which formalized the process for negotiated consensus rulemakings for the first time.

A number of our witnesses participate on this committee which includes again manufacturers, trade associations, States and consumer groups. Can anyone comment on this committee's work and what it is as a -- what it might be as a positive step to formalize this process? Mr. Eckman.

Mr. Eckman. Yeah. I think it has improved the process a lot particularly where there is a likelihood that both the manufacturers and efficiency advocates and the DOE agency personnel and consultants can come to a more flexible conclusion than would otherwise be provided.

I think it has allowed for lots of horse trading that wouldn't occur, as Mr. Yurek said, under the standard process, the rulemaking hearings process and file your report. So I think it has been a huge advantage. I have been a member since the committee was established. We have had multiple work groups, seven different work groups so far on negotiating standards. They work the best when both the parties that want to participate in that come before the committee and say, we think we can work this out, give us a chance.

If that is not possible or there is not really an issue, everybody thinks we can do this through rule and comment, that is a much more expedient processes it takes a lot of time and energy to do the negotiations as you are aware, but they turn out to be better rules as a consequence for everybody involved. And I think supporting that on a continuous basis, the ASRAC committee and process that has improved the process a lot.

Mr. Tonko. Does anyone else --

Ms. Noll. I would just to note on the 75 percent that weren't consensus or joint negotiations does not mean that they weren't going through the normal rulemaking process to deliver superior outcome.

And only five of those rules have been litigated and I think that is still a very small number on the grand scheme of things.

Mr. Tonko. Okay. Thank you. Mr. Cosgriff?

Mr. Cosgriff. Yeah and to Mr. Yurek's point to follow it up a little bit, we are sitting around a table taking about technical things, you better have the technical chaps to have that conversation. And so in this highly quantified algorithm that ASRAC and DOE consultants use, I would like to see inside that. We have mathematicians, we can figure it out. I don't understand why we can't see what the key assumptions are and how those assumptions play inside the model that they are run through the computer.

So one of the things we learned over the last 4 years I think is that that incoming tide has raised all the boats. This is a good news story, so now let's perfect it so let's do it in as scientific way as possible and as transparently as possible.

Mr. Tonko. Thank you. Anyone else? McGuire?

Mr. McGuire. Mr. Tonko I would say --

Mr. Olson. I am sorry, the gentleman's time is expired. We have votes coming up, my friends so make it quick. I recognize the gentleman from Missouri, Mr. Long for 5 minutes.

Mr. Long. Thank you, Mr. Chairman.

And Mr. McGuire could you recommend to me what type of hair dryer would be the best purchase for my dishwasher so I could dry my dishes

whenever the cycle is through?

Mr. McGuire. I will provide it for the record.

Mr. Long. My dishes are not feeling the burn as they once did.

Mr. Cosgriff, in some of the testimony given today, the issue of the Department of Energy coordinating better with other agency was mentioned as an area for improvement, particularly in the area of making sure that imported products containing regulated components are held at the same standards as the domestically manufactured products are on their own. What are your thoughts on how we can ensure a level playing field for U.S. made components?

Mr. Cosgriff. There would be a number of things. I think clearly it may not be DOE's responsibility, but it would be their responsibility to make sure that their fellow travelers principally, Customs and similar policing function are aware of what the standards are, what to be looking for.

Mr. Long. Can you pull your mike a little closer?

Mr. Cosgriff. I think industry has a role in that too. We should step up offer our technical expertise. There is other distributors would have a role in that, systems manufacturers will have a role in that. So it is not going to be one easy solution, but we don't want the products in the stream or in the system.

Mr. Long. Well the energy conservation standards program required the Department of Energy to start a new rulemaking procedure

on a product as part of 6-year review cycle. Can you tell me generally how long it takes to fully comply with the energy conservation standards for a product factoring in all of the cumulative rules, including test procedures?

Mr. Cosgriff. Three years sticks in my mind, I think it would be different for different products, I mentioned lighting happens a little bit faster. If we are meeting a motor efficiency standard, that is a little more complex machine. So I think it is different.

But assuming we have 3 years to get into compliance and then that gives you 3 years of run time before the next rulemaking kicks off and DOE tends to as you would expect, and as they should, start that rulemaking early so they are able to comply with the law when they get to 6 years.

I would also point out in the covered products for NEMA, we know of only two times where the Department has chosen for the cost-benefit analysis to forego the rule.

Mr. Long. What are some of the challenges in complying with both the energy conservation standards and additional test procedures?

Mr. Yurek. Congressman, that is one of the interesting things that -- the change when we made the serial rule part of the I think the 2005 amendments to EPCA, you have to review the standards every 6 years. And the requirement is review the test procedures every 7. And what we are starting to see in light of lot of our products, the

test procedures aren't complete for the products that they are setting standards for.

So as a matter of fairness don't even know what the test procedures can be and how our products will be measured. The information isn't there. And they are setting efficiency standards in minimum levels. And so, I think, the interrelationship is very important and we need to know what the rules are, be able to evaluate what those rules are through testing our products and providing that information to DOE before they start setting the next standard.

And the same thing in the previous question Mr. Cosgriff, our products it is a 5-year implementation time from the standard being set and when it becomes effective. And it takes that entire time to do it. And so what we are seeing is that even before in some cases the standards are put into effect, we are seeing the next round, and we saw that with residential air conditioners. The standard went into effect January 2015. The fall of 2014 they already started discussing the next round of efficiency. So you are looking at increasing the efficiency standards on the equipment before the prior standard went into effect.

Mr. Long. Welcome to Washington, D.C. Mr. Cosgriff, do you care to comment on that as to what the challenges are?

Mr. Cosgriff. It pretty much is, as Mr. Yurek said, it is going to take us some additional time depending upon the product.

Mr. Long. Thank you. Mr. Chairman, I yield back.

Mr. Olson. The gentleman yields back. The chair recognizes the gentleman from North Carolina, Mr. Hudson for 5 minutes.

Mr. Hudson. Thank you, Mr. Chairman and thank the panel for being here today, a very informative discussion.

Mr. McGuire, which of your appliances have been regulated multiple times? I mean, do you believe we are reaching a point of diminishing marginal returns with this serial rulemaking?

Mr. McGuire. Virtually all of our products have been regulated multiple times. The current refrigerator standard that has been in effect since last year is the fourth version of that standard, same for dishwashers. And the rule I mentioned proposed was the fifth revision.

So we believe we hit the point of diminishing returns in the last tranche of standards that were negotiated through the consensus process. We think standards going forward for most our products not justified on the economics or the energy savings.

Mr. Hudson. I appreciate that. Mr. Long asked one of the other panelists about the issue of having the DOE propose new standards for some products while the underlying test procedures are also changing, would you like to elaborate on how this is a problem for you?

Mr. McGuire. It is a major issue because a manufacturer cannot tell what they have to do to comply with the new standard until they

know how to test to it. So that is why the law said test procedures come first, but that process is a little out of whack right now.

So we, in the case of portable air conditioners, we have had to comment on proposed standard before we knew what the final test procedure was. That is really impossible to do but that has what we are forced to do under the current process that is being employed.

Mr. Hudson. Well that seems like it is not serving the best interest of the people either if we aren't getting the true assessment of the as a result of these tests. I obviously see why that is a mistake.

Many of your manufacturers made several regulated products and face multiple rules. What is the challenge, maybe you can elaborate a little more it for your member companies in terms of complying with all these different requirements simultaneously, just in addition to the testing things we talked about but just elaborate on that?

Mr. McGuire. The initial investment to gear up for a new standard is as Mr. Yurek and Cosgriff said, is quite an investment to understand the test procedure and get your products qualified. But ongoing, once a standard is in effect, a manufacturer has to test and certify those products with the Department of Energy. If you want your products to be ENERGY STAR qualified, that requires a further up front test as well as ongoing testing of a certain percentage of your products.

So that is a pretty significant testing burden for the

manufacturers. And when the test procedures are under revision, it has to be very precise in order for you to design a product. What we have experienced also is that ENERGY STAR sometimes will want a different test procedure than DOE requires for the standards.

One of the benefits we found of negotiating the consensus process, is we would peg the ENERGY STAR requirement to the standard requirement with the same test procedures so manufacturers can plan that out. But that hasn't always been the case, so these are processes that used to be employed, but haven't been across the board in recent years.

Mr. Hudson. Thank you. Industry groups have repeatedly asked DOE to establish separate product categories for condensing and noncondensing covered products only to have DOE provide response that condensing and noncondensing equipment provide the same utility to consumers so there is no justification for establishing separate product categories. Is this another area that warrants an objective third-party review?

Mr. Yurek. Congressman, what you are talking about is the famous furnace rule. And there again is related to technology.

This equipment is at a point where you have condensing and noncondensing and there is cost differences is considerable between the two technologies. Right now we are at the highest level of noncondensing efficiency and the rulemaking is looking at making a condensing requirement.

I think the groups -- this would have been a rule that would have been great for negotiation, because we have seen over the years every rule that is come out has landed in litigation, and to see the groups come together and reach a solution would be a better solution.

But right now we are in the midst of notice and comment, and I believe DOE has just issued their proposed rule to OMB for review, so we will see what happens there. But having two separate product classes for condensing and noncondensing does not look like it will be something that will be put forward.

RPTR KERR

EDTR ROSEN

[11:35 a.m.]

Mr. Hudson. I appreciate that.

And Mr. Chairman, it looks like my time is about expired, so I will yield back.

Mr. Olson. The gentleman yields back. The chair recognizes the gentleman from Ohio, Mr. Johnson, for 5 minutes.

Mr. Johnson. Thank you, Mr. Chairman, and I, too, want to thank the panel for joining us today. Thank you all. I know this is -- you have been here awhile already.

For Mr. McGuire, Mr. Cosgriff, and Mr. Yurek, how important is early stakeholder input in the rulemaking process? I mean, what are the additional challenges that you face when DOE issues a notice of proposed rulemaking without having consulted with you beforehand?

Mr. McGuire, let's start with you.

Mr. McGuire. I think it is very important from an effectiveness point of view. If the manufacturer hasn't had the ability to be in a dialogue with the government about the proposal and how they except the efficiency requirements to be achieved, and do some testing, then you are really dealing in a vacuum.

This is what happened with the proposed dishwasher rule. So it

is very important. These are technical matters. It is very important that not only manufacturers are engaged early but all stakeholders. This ASRAC process does do that, but the ASRAC process is useful once the decision has been made that there will be a new standard.

And so what we are talking about is changing the process for determining whether there should be a new standard. If there is going to be one, consensus is always the best. We feel we will do better. I think as the advocates feel, giving a give-and-take, putting the data on the table, and not wondering where the data came from.

Mr. Johnson. Before we go any further, I really want you guys to get the dishwasher rule right. I am the dishwasher at my house, and if the dishwashers don't clean, I have got a real problem. So I mean, it is going to be double work for me, so Mr. Cosgriff, go ahead.

Mr. Cosgriff. I certainly agree with what my colleague says, and I think what I have heard is -- listening to this conversation is, at least by the manufacturers, this is not an assault on the standards. This is -- we want the energy-efficient economy to thrive. It is good for business, as Elizabeth Noll pointed out. That said, it can be more transparent.

The Department of Energy has some true experts in their field, but so do we, and it should be, as was stated, let's put the numbers on the table, and then let's bring in the business people and say, okay, the cost of efficiency improvement goes like that or goes like that,

but the efficiency curve is almost flat. At some point, we got to call it off.

Mr. Johnson. Got you. Thank you. Mr. Yurek.

Mr. Yurek. I think it is very important because industry has the information that this rule is going to be based on it. It has information on what technology is available. It has information on the costs. It has information on the products that are being sold in there today, you know, both on the different efficiency levels. And so if that conversation doesn't occur, what is the regulator looking at to make its decision on is there significant energy savings? Can there be energy savings? And should we move forward with the rule?

And so it is very necessary for that dialogue. And I think DOE would like to have that dialogue, but again, they are tied by what you as Congress has put in this act in the serial rulemakings where you are mandating these rules every 6 years, and they just don't have the time, you know, to do a lot of times everything they need to do or like to do to get these rules out and also meet the court order from the 2nd Circuit to make sure they meet all their deadlines.

Mr. Johnson. Okay. Let's continue with you, Mr. Yurek. The DOE has proposed new standards for some of your products while the underlying test procedure is also changing. Why is this a problem for you?

Mr. Yurek. Congressman, it is a huge problem, as I stated

earlier, in that we need to know what the rules are, how all our products can be measured. And again, it is getting DOE the right information. If the test procedures aren't set, how do they know how products are performing out in the field?

Mr. Johnson. Is it safe to say it is pretty dadgum hard to innovate when you don't know what -- how you are going to be measured at the end of the -- end of this?

Mr. Yurek. You don't know what the target is. You don't know what you are going to be measured on.

Mr. Johnson. You don't know where you are going, any road to get you there?

Mr. Yurek. Right.

Mr. Johnson. Okay. Mr. Chairman, I am going to yield back 45 seconds.

Mr. Olson. We thank the gentleman from Ohio.

The chair recognizes the gentleman from Oklahoma, Mr. Mullin for 5 minutes.

Mr. Mullin. Thank you, sir, and thank you for having this meeting. You know, I will be honest with you, there is a few meetings that we have in here that I have to really study hard on because I am not familiar with it. This is, as I would say, in my wheelhouse.

I understand this situation extremely well. And Ms. Noll, I am going to kind of just talk to you for probably the remainder of the

time Because of a couple of things that you said, and I just kind of want to set the record straight. One, you said huge savings of these energy efficiency standards that DOE has put out, has put huge savings. That was your words, right? Based on what?

Ms. Noll. Based on analysis.

Mr. Mullin. What analysis?

Ms. Noll. The analysis that ACEEE and Appliance Standards Awareness Project has done, as well as the Department of Energy's own analysis.

Mr. Mullin. And I mean, are you really looking at bills and prices, because you said huge savings, and then you said up to $500 a year on energy cost. Is that correct?

Ms. Noll. Correct

Mr. Mullin. So in Oklahoma, the average household today, their total energy bill a year is $1,296. So you are saying that because of your savings, you know, that bill would have been $1,796. Is that right?

Ms. Noll. Absent standards.

Mr. Mullin. Yeah. But yet if I go back and I look at 2008, the midline -- just the midline Whirlpool dishwasher, the average use was about $29 a year is what that unit cost to run. At the same time, the cost of the unit was $375. Today, the same unit is $399, and it costs $32 a month to -- or a year to run.

Ms. Noll. The standards program has been in effect since 1987, and recently --

Mr. Mullin. I am just talking about -- you said huge savings.

Ms. Noll. Uh-huh.

Mr. Mullin. So I am trying to figure out where the huge savings are from because right now, we are just talking about dishwashers. Well, dishwashers, we can see in the last 8 years, have actually went up. They cost more. So that is not a savings. And they cost more to run per year. So just give me an opportunity again, where is huge? If huge would be massive. I mean, I am thinking like big time, that is huge, your word. $500, I guess you could say that is huge, but I don't see it. That is the dishwasher. So I will give you the mic and let you go ahead and try to explain that for me.

Ms. Noll. In my opinion, I think $2 trillion in savings to consumers is a lot of huge savings.

Mr. Mullin. No, you say $2 trillion. I am just trying to figure out where the $2 trillion are. DOE comes in here and makes all these outlandish claims all the time, how much they are saving, you know, the mid-level households and all this stuff, and how much energy is down when energy cost is actually up, and then you are in here making claims that the household is saving money, and I am just not seeing it.

If anybody on the panel can help me, let me know because I don't

want to make a claim that is not true, and right now I am seeing a claim that is not true. Go ahead, Ms. Miller.

Ms. Miller. I think it is a valid question to say what is this analysis based on, and I think to reiterate some of the other remarks made by other members of this panel, it is difficult to see where those claims come from in DOE's analysis.

Mr. Mullin. Right.

Ms. Miller. And if you are looking at dishwashers specifically, if you look at the standards that were finalized in 2012, they assumed, as you mentioned before, Mr. McGuire, that the payback period would be about 12 years, which is only as long as your dishwasher is going to last, and I think they assume that households would save on net $3.

Mr. Mullin. Let me read you a manual for a startup, for a new dishwasher now. On top of it costing more to run, quote, this is out of the manual, says: "Run hot water at sink nearest your dishwasher until water is hot. Turn off water. For best dishwasher results, water should be 120 degrees before it enters the dishwasher."

This is a new standards that we have to have out. So not only does it cost more to run, Ms. Noll, now we are having -- we are wasting water, which this is a big issue nowadays. We always talk about water savings, especially let's go to California. Let's talk about California for a second. They are supposed to run -- waste hot water and let it run, and this is the manual that comes for dishwashers now

that says that.

Refrigerators, let me use refrigerators real quick. Refrigerators in 2008, average Whirlpool refrigerator costs $999. That same unit comparable today is $1,299. Energy cost? Also up. Now, these are two major appliances. We are talking about a refrigerator. We are talking about a dishwasher.

Where is the huge savings? DOE and the argument on all these energy efficient appliances are always out there talking about huge savings, and American people think it is huge, and yet I gave you two examples of two --

Mr. Rush. Time, Mr. Chairman.

Mr. Mullin. -- that it is --

Mr. Olson. The gentleman's time is expired.

Mr. Mullin. I yield back

Mr. Olson. Thank you. Seeing no further witnesses seeking time, the chair asks unanimous consent to enter for the record a multitude of statements on this subject matter from a number of agencies and concerned citizens.

Without objection, so ordered.

In closing, the chair wants to thank all the witnesses for your time and expertise and your insights as to how to use hair blow dryers to dry dishwasher -- dishes in the dishwasher.

The chair reminds the members you have 5 legislative days to

submit questions for the record and statements, executive -- EORs, statements for the record. Without objection, this hearing is adjourned.

[Whereupon, at 11:44 a.m., the subcommittee was adjourned.]