

Congress of the United States
House of Representatives
Washington, DC 20515-1604

December 4, 2015

The Honorable Paul D. Ryan
Speaker of the House
H-232 The Capitol
Washington, DC 20515

Dear Speaker Ryan:

I am writing concerning provisions contained in the FY 2016 Energy and Water Appropriations Act, and to ask your consideration of language that would push the pause button on the U.S. Department of Energy's (DOE) ability to promulgate costly new energy efficiency standards under the Energy Policy and Conservation Act (EPCA) for up to 18 months.

While much of our attention on Capitol Hill has been focused on the devastating potential impacts of the Administration's Clean Power Plan, the other central piece of President Obama's Climate Action Plan—accelerated DOE regulations on U.S. manufacturers—has received comparatively less attention. Over the last eight years, I have watched as DOE has rushed out new efficiency and conservation standards without adhering to its own process rule and with little recognition to the increased cost burdens on U.S. manufacturers and, ultimately, U.S. consumers. As DOE has continued on its rapid pace, the benefits of these standards have been increasingly called into question as studies have shown that these programs simply do not generate the benefits claimed by DOE regulators. One recent study from the University of Chicago Economics Department finds that “the costs of conservation standards still substantially outweigh the benefits,” with an average rate of return of -9.5% annually.

There are already three sections of H.R. 2028, the Energy and Water Development and Related Agencies Appropriations Act of 2016, which prohibit DOE's ability to further promulgate rules relating to efficiency standards.

1. Sec. 510, an amendment originally offered by Mr. Dent and then agreed upon by committee, which states: “None of the funds made available by this Act may be used by the Department of Energy to finalize, implement, or enforce the proposed rule entitled “Standards Ceiling Fans and Ceiling Fan Light Kits” and identified by regulation identification number 1904-AC87”
2. Sec. 513, an amendment originally offered by Mr. Burgess and then agreed upon by committee, which states: ““Amendment sought to prohibit the use of funds to implement or enforce the standards established by tables contained in section 325(i)(1)(B) of the Energy Policy and Conservation Act with respect to BPAR incandescent reflect lamps, BR incandescent reflector lamps, and ER incandescent reflector lamps.

3. Sec. 519, an amendment originally offered by Ms. Blackburn and then agreed upon by them by committee, which states: "None of the funds made available by this Act may be used to finalize, promulgate, or enforce the Department of Energy's proposed rule entitled "Energy Conservation Program for Consumer Products: Energy Conservation Standards for Residential Furnaces" (80 Fed. Reg. 48: March 12, 2015).

These sections illustrate that Members are gravely concerned with DOE's rulemaking capabilities under Section 325 of EPCA. However, while I am encouraged by the inclusion of these provisions, I feel they do not go far enough in ensuring that DOE utilizes an open and transparent process that balances environmental benefits with the increased burdens on industry and consumers. This is especially urgent as I am concerned that DOE plans to complete 26 energy efficiency rules, conservation standards, or test procedures for a wide range of consumer and commercial products by the end of 2016, including central conditioners and heat pumps, small electric motors, portable air conditioners, general service lamps, residential dishwashers, ceiling fans, battery chargers, dedicated-purpose pool pumps, and gas furnaces.

Rather than a tedious piecemeal approach where each individual product is examined, I believe a pause in Section 325 rulemaking of up to 18 months is more appropriate. In this time period, DOE can work with Congress and stakeholder groups to reevaluate its decision-making processes to ensure that efficiency standards are developed in an open and transparent process that fairly evaluates what is technically and economically justified as required by law. There is precedent for this type of a provision, as the Appropriations Committee passed similar language during the Clinton Administration, requiring DOE rulemaking to be put on hold until manufacturers and the Department met to resolve their differences.

Members of Congress have recognized DOE's rushed and unprecedented approach to energy efficiency rulemakings, and I believe, rather than continuing a piecemeal approach, requiring a pause in DOE activity is a more "efficient" way of sending a message to DOE that future rulemakings must be the product of an open and fair process that considers the potential harm to U.S. manufacturers and consumers.

I appreciate you taking the time to review this matter, and please let me know if your office has any questions or concerns.

Sincerely,



Mike Pompeo
MEMBER OF CONGRESS