

117TH CONGRESS
2D SESSION

H. R. 8402

To amend the Energy Policy and Conservation Act to prohibit the Secretary of Energy from prescribing any new or amended energy conservation standard for a product that is not technologically feasible and economically justified, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 15, 2022

Mrs. LESKO introduced the following bill; which was referred to the
Committee on Energy and Commerce

A BILL

To amend the Energy Policy and Conservation Act to prohibit the Secretary of Energy from prescribing any new or amended energy conservation standard for a product that is not technologically feasible and economically justified, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “DOE Appliance and
5 Equipment Standards Reform and Consumer Protection
6 Act”.

1 **SEC. 2. PRESCRIBING NEW OR AMENDED ENERGY CON-**
2 **SERVATION STANDARDS.**

3 (a) PETITION FOR AMENDED STANDARD.—Section
4 325(n) of the Energy Policy and Conservation Act (42
5 U.S.C. 6295(n)) is amended—

6 (1) in paragraph (1), by inserting “or revoked”
7 after “should be amended”;

8 (2) by amending paragraph (2) to read as fol-
9 lows:

10 “(2) The Secretary shall grant a petition to de-
11 termine if energy conservation standards for a cov-
12 ered product should be amended or revoked if the
13 Secretary finds that such petition contains evidence,
14 assuming no other evidence were considered, that
15 such standards—

16 “(A) result in additional costs to con-
17 sumers;

18 “(B) do not result in significant conserva-
19 tion of energy or water;

20 “(C) are not technologically feasible; and

21 “(D) result in such covered product not
22 being commercially available in the United
23 States to all consumers.”; and

24 (3) in paragraph (4)—

1 (A) by striking “NEW OR AMENDED
2 STANDARDS.” and inserting “NEW, AMENDED,
3 OR REVOKED STANDARDS.”;

4 (B) by redesignating subparagraphs (A)
5 and (B) as clauses (i) and (ii), respectively;

6 (C) by striking “Not later than 3 years”
7 and inserting “(A) Not later than 3 years”; and

8 (D) by adding at the end the following:

9 “(B) Not later than 180 days after the date of
10 granting a petition to revoke standards, the Sec-
11 retary shall publish in the Federal Register—

12 “(i) a final rule revoking the standards; or

13 “(ii) a determination that it is not nec-
14 essary to revoke the standards.

15 “(C) The grant of a petition by the Secretary
16 under this subsection creates no presumption with
17 respect to the Secretary’s determination of any of
18 the criteria in a rulemaking under this section.”.

19 (b) CRITERIA.—Paragraphs (2) and (3) of section
20 325(o) of the Energy Policy and Conservation Act (42
21 U.S.C. 6295(o)) are amended to read as follows:

22 “(2) REQUIREMENTS.—

23 “(A) DESIGN.—Any new or amended en-
24 ergy conservation standard prescribed by the
25 Secretary under this section for any type (or

1 class) of covered product shall be designed to
2 achieve the maximum improvement in energy
3 efficiency, or, in the case of showerheads, fau-
4 cets, water closets, or urinals, water efficiency,
5 which the Secretary determines is techno-
6 logically feasible and economically justified.

7 “(B) TEST PROCEDURES.—The Secretary
8 may not prescribe a new or amended energy
9 conservation standard under this section for a
10 type (or class) of covered product if a test pro-
11 cedure has not been prescribed pursuant to sec-
12 tion 323 with respect to that type (or class) of
13 product.

14 “(C) SIGNIFICANT CONSERVATION.—The
15 Secretary may not prescribe a new or amended
16 energy conservation standard under this section
17 for a type (or class) of covered product if the
18 Secretary determines that the establishment
19 and imposition of such energy conservation
20 standard will not result in significant conserva-
21 tion of—

22 “(i) energy; or

23 “(ii) in the case of showerheads, fau-
24 cets, water closets, or urinals, water.

1 “(D) TECHNOLOGICALLY FEASIBLE AND
2 ECONOMICALLY JUSTIFIED.—

3 “(i) IN GENERAL.—The Secretary
4 may not prescribe a new or amended en-
5 ergy conservation standard under this sec-
6 tion for a type (or class) of covered prod-
7 uct unless the Secretary determines that
8 the establishment and imposition of such
9 energy conservation standard is techno-
10 logically feasible and economically justified.

11 “(ii) EFFECT.—For purposes of sec-
12 tion 327, a determination under clause (i)
13 with respect to any type (or class) of cov-
14 ered products shall have the same effect as
15 would a standard prescribed for such type
16 (or class).

17 “(3) FACTORS FOR DETERMINATION.—

18 “(A) ECONOMIC ANALYSIS.—Prior to pre-
19 scribing any new or amended energy conserva-
20 tion standard under this section for any type
21 (or class) of covered product, the Secretary
22 shall conduct a quantitative economic impact
23 analysis of imposition of the energy conserva-
24 tion standard that determines the predicted—

1 “(i) effects of imposition of the energy
2 conservation standard on costs to con-
3 sumers of the products subject to such en-
4 ergy conservation standard, including—

5 “(I) costs to low-income house-
6 holds; and

7 “(II) variations in costs to con-
8 sumers based on differences in re-
9 gions, including climatic differences;

10 “(ii) effects of imposition of the en-
11 ergy conservation standard on employment;
12 and

13 “(iii) lifecycle costs for the covered
14 product, including costs associated with
15 the purchase, installation, maintenance,
16 disposal, and replacement of the covered
17 product.

18 “(B) PROHIBITION ON ADDITIONAL COSTS
19 TO THE CONSUMER.—The Secretary may not
20 determine that imposition of an energy con-
21 servation standard is economically justified un-
22 less the Secretary, based on an economic anal-
23 ysis under subparagraph (A) determines that—

24 “(i) imposition of such energy con-
25 servation standard is not likely to result in

1 additional net costs to the consumer, in-
2 cluding any increase in net costs associated
3 with the purchase, installation, mainte-
4 nance, disposal, and replacement of the
5 covered product; and

6 “(ii) any additional cost to the con-
7 sumer of purchasing and installing a cov-
8 ered product complying with such energy
9 conservation standard will be less than 3
10 times the value of the energy, and as appli-
11 cable, water, savings during the first year
12 that the consumer will receive as a result
13 of the standard, as calculated under the
14 applicable test procedure.

15 “(C) REQUIRED ENERGY OR WATER SAV-
16 INGS.—The Secretary may not determine that
17 imposition of an energy conservation standard
18 is economically justified unless the Secretary
19 determines that compliance with such energy
20 conservation standard will result in—

21 “(i) a reduction of at least 0.3 quads
22 of site energy over 30 years; or

23 “(ii) at least a 10 percent reduction in
24 energy or water use of the covered product.

1 “(D) CRITERIA RELATED TO PERFORM-
2 ANCE.—The Secretary may not determine that
3 imposition of an energy conservation standard
4 is economically justified unless the Secretary
5 determines that imposition of such energy con-
6 servation standard will not result in any less-
7 ening of the utility or the performance of the
8 applicable covered product, taking into consid-
9 eration the effects of such energy conservation
10 standard on—

11 “(i) the compatibility of the covered
12 product with existing systems;

13 “(ii) the life span of the covered prod-
14 uct;

15 “(iii) the operating conditions of the
16 covered product;

17 “(iv) the duty cycle, charging time,
18 and run time of the covered product, as
19 applicable;

20 “(v) the maintenance requirements of
21 the covered product; and

22 “(vi) the replacement and disposal re-
23 quirements for the covered product.

24 “(E) CRITERIA RELATED TO MARKET COM-
25 PETITION AND PRICE DISCRIMINATION.—The

1 Secretary may not determine that imposition of
2 an energy conservation standard is economically
3 justified unless the Secretary determines that
4 imposition of the energy conservation standard
5 is not likely to result in—

6 “(i) any lessening of market competi-
7 tion; or

8 “(ii) price discrimination.

9 “(F) TECHNOLOGICAL INNOVATION.—The
10 Secretary may not determine that imposition of
11 an energy conservation standard is economically
12 justified unless the Secretary determines that
13 imposition of such energy conservation standard
14 is not likely to result in the unavailability in the
15 United States of a type (or class) of products
16 based on what type of fuel the product con-
17 sumes.

18 “(G) OTHER CONSIDERATIONS.—In deter-
19 mining whether imposition of an energy con-
20 servation standard is economically justified, the
21 Secretary—

22 “(i) shall prioritize the interests of
23 consumers;

24 “(ii) may not consider estimates of
25 the social costs or social benefits associated

1 with incremental greenhouse gas emissions;
2 and

3 “(iii) shall consider—

4 “(I) the economic impact of the
5 standard on the manufacturers and
6 on the consumers of the products sub-
7 ject to such standard;

8 “(II) the savings in operating
9 costs throughout the estimated aver-
10 age life of the covered product in the
11 type (or class) compared to any in-
12 crease in the price of, or in the initial
13 charges for, or maintenance expenses
14 of, the covered products which are
15 likely to result from the imposition of
16 the standard;

17 “(III) the total projected amount
18 of energy, or as applicable, water, sav-
19 ings likely to result directly from the
20 imposition of the standard;

21 “(IV) the need for national en-
22 ergy and water conservation; and

23 “(V) other factors the Secretary
24 considers relevant.

25 “(H) REGULATORY REVIEW.—

1 “(i) EVALUATION.—Not later than 2 years
2 after the issuance of any final rule prescribing
3 a new or amended energy conservation standard
4 under this section for any type (or class) of cov-
5 ered product, the Secretary shall evaluate the
6 rule to determine whether such energy con-
7 servation standard is technologically feasible
8 and economically justified and whether the reg-
9 ulatory impact analysis for such rule remains
10 accurate.

11 “(ii) EFFECT.—Notwithstanding any other
12 provision of this part, if the Secretary deter-
13 mines, based on an evaluation under clause (i),
14 that an energy conservation standard is not
15 technologically feasible or economically justi-
16 fied—

17 “(I) the Secretary shall publish such
18 determination and such energy conserva-
19 tion standard shall have no force or effect;
20 and

21 “(II) the Secretary may publish a
22 final rule amending the energy conserva-
23 tion standard for the type (or class) of cov-
24 ered product to be technologically feasible
25 and economically justified in accordance

1 with this subsection, which amendment
2 shall apply to such a product that is manu-
3 factured after the date that is 2 years
4 after publication of such final rule.”.

5 **SEC. 3. CONFORMING AMENDMENTS.**

6 (a) AMENDMENT OF STANDARDS.—Section
7 325(m)(1)(A) of the Energy Policy and Conservation Act
8 (42 U.S.C. 6295(m)(1)(A)) is amended by striking “,
9 based on the criteria established under subsection (n)(2)”.

10 (b) REGIONAL STANDARDS.—Section
11 325(o)(6)(D)(i)(II) of the Energy Policy and Conservation
12 Act (42 U.S.C. 6295(o)(6)(D)(i)(II)) is amended by strik-
13 ing “this paragraph” and inserting “this subsection”.

14 (c) PROCEDURE FOR PRESCRIBING NEW OR AMEND-
15 ED STANDARDS.—Section 325(p)(2)(A) of the Energy
16 Policy and Conservation Act (42 U.S.C. 6295(p)(2)(A))
17 is amended by striking “taking into account those factors
18 which the Secretary must consider under subsection
19 (o)(2)” and inserting “as determined in accordance with
20 subsection (o)”.

21 (d) ENERGY CONSERVATION STANDARDS FOR HIGH-
22 INTENSITY DISCHARGE LAMPS, DISTRIBUTION TRANS-
23 FORMERS, AND SMALL ELECTRIC MOTORS.—Section 346

1 of the Energy Policy and Conservation Act (42 U.S.C.
2 6317) is amended by striking subsection (c).

○