

December 18, 2015

Ms. Brenda Edwards, EE-41
Office of Energy Efficiency and Renewable Energy
Energy Conservation Program for Consumer Products
U.S. Department of Energy
1000 Independence Avenue, SW.
Washington, DC 20585-0121

Docket Number: EERE-2015-BT-CRT-0013
RIN: 1904-AD53

Dear Ms. Edwards:

This letter constitutes the comments of the Appliance Standards Awareness Project, the Natural Resources Defense Council (NRDC), and the American Council for an Energy Efficient Economy on the Department of Energy (DOE, the Department) notice of proposed rulemaking (NOPR) for Energy Conservation Program: Exempt External Power Supplies Under the EPS Service Parts Act of 2014

The Appliance Standards Awareness Project organizes and leads a broad-based coalition effort that works to advance, win and defend new appliance, equipment and lighting standards which deliver large energy and water savings, monetary savings and environmental benefits.

The Natural Resources Defense Council (NRDC) is an international nonprofit environmental organization with more than 1.3 million members and online activists. Since 1970, our lawyers, scientists, and other environmental specialists have worked to protect the world's natural resources, public health, and the environment. NRDC has offices in New York City, Washington, D.C., Los Angeles, San Francisco, Chicago, Livingston, Montana, and Beijing. NRDC's top institutional priorities are curbing global warming and creating a clean energy future. For more than 30 years, NRDC has advocated for stronger federal and state energy efficiency standards for household appliances and commercial products, and for strong implementation and enforcement of these standards, including better test procedures.

The American Council for an Energy-Efficient Economy (ACEEE), a nonprofit, 501(c)(3) organization, acts as a catalyst to advance energy efficiency policies, programs, technologies, investments, and behaviors. We believe that the United States can harness the full potential of energy efficiency to achieve greater economic prosperity, energy security, and environmental protection for all its people.

Background:

As described on DOE's rule-making website for this docket, Section 301 of EISA 2007 established minimum energy conservation standards for Class A external power supplies (EPSs) manufactured on or after July 1, 2008. EISA 2007 exempts Class A EPSs from meeting these statutorily-prescribed standards if the devices are manufactured before July 1, 2015, and made available by the manufacturer as service parts or spare parts for end-use consumer products that were manufactured prior to July 1, 2008. Congress created this limited, temporary exemption as part of amendments to EPCA under EISA 2007. EISA recognized that the exempted EPSs were service or spare parts and that the cost of redesigning them could

outweigh the energy saving and pollution reduction benefits. However, the provision did not grant DOE the authority to expand or extend the length of this exemption and Congress did not grant DOE with the general authority to exempt any already covered product from the requirements set by Congress.

On Feb. 10, 2014 DOE published a final rule prescribing new energy conservation standards for non-Class A EPSs and amended standards for some Class A EPSs. These new standards apply to products manufactured on or after February 10, 2016. However, DOE did not have the authority to provide manufacturers with an exemption for EPSs that were made available as service or spare parts to end-use consumer products that were manufactured prior to the compliance date of these new standards.

On December 18, 2014, the President signed the EPS Service Parts Act of 2014, to provide manufacturers with an exemption for EPSs that are:

- (i) Manufactured during the period beginning on February 10, 2016, and ending on February 10, 2020;
- (ii) marked in accordance with the External Power Supply International Efficiency Marking Protocol;
- (iii) compliant, where applicable, with the standards for Class A EPSs and certified to DOE as meeting at least International Efficiency Level IV; and
- (iv) made available by the manufacturer as a service part or spare part for an end-use product manufactured before February 10, 2016.

The EPS Spare Parts Act of 2014 also allows DOE to limit the applicability of the exemption if the Secretary determines that the exemption causes a significant reduction of the energy savings from the new standards and authorizes DOE to provide a similar exemption from future EPS conservation standards.

In this NOPR, DOE proposes to codify the provisions of the EPS Service Parts Act of 2014. DOE also proposes to require annual reports of the total number of exempt EPS units sold as service and spare parts that do not meet the relevant energy conservation standards.

Comments:

The signatories broadly support DOE's proposal to codify the EPS Service Parts Act of 2014 into the CFR. We support a narrowly defined exemption for certain EPSs offered as service parts or spare parts for end-use consumer products that addresses a burden placed on industry by the current standard. Industry will need to maintain a small number of service and spare parts for products that were manufactured before the revised EPS standards go into effect on Feb. 10, 2016. We agree that the burden of redesigning EPSs for products no longer manufactured after the standards go into effect, just to be able to provide a very small number of service parts, may outweigh the energy saving and pollution reduction benefits. However, it is important that the exemption not be abused to allow the sale of a larger number of EPSs than warranted by the intent of the law. Such abuse of the exemption could significantly reduce energy savings from the EPS standards. The consumer electronics industry is complex and rapidly evolving and there are important nuances in the application of the law. Codification of the EPS Service Parts Act of 2014 will help to minimize the chance of loopholes which could significantly reduce the energy savings from the EPS standards. This rule would also aid enforcement by clarifying market data provision requirements for industry.

The signatories strongly support DOE's proposal that the exemption should not apply to EPSs made available as spare part or sold with products manufactured after Feb 10, 2016. Such EPSs should be redesigned to be compliant with the current standard and therefore do not need to be redesigned specifically for products manufactured before Feb. 10, 2016. The redesign of these EPSs is justified by the new standards and does not create an undue burden for industry.

The signatories also support DOE's proposal that EPSs can only be exempted if not capable of operating products manufactured after February 10, 2016, for the same reasons as above: these EPSs must be redesigned to be compliant with the new standards, their redesign therefore does not create an undue burden for industry.

Finally, the signatories strongly support DOE's proposed reporting requirements for exempted EPSs. Reporting is critical for DOE to be able to evaluate the exemption's impacts on energy savings and implement its statutory authority under the EPS Service Parts Act of 2014 to determine that the exemption is not resulting in a significant reduction of the energy savings from the standards.

We believe that reporting will also facilitate DOE's enforcement of the standards, as EPSs that use the exemption without reporting are more likely not to meet exemption regulatory requirements. We also support DOE's proposal that reporting take place annually as part of the existing Class A certification process.

The signatories similarly support DOE's proposal that would require reporting for non-class A EPSs. Even though there is currently no certification process for exempted non-class A EPSs, reporting will be beneficial for the same reasons as discussed above, and provides consistency with the proposed reporting requirements for exempted class A EPSs.

Thank you for considering our comments.

Sincerely,



Christopher Granda
Senior Consultant
on behalf of
Appliance Standards Awareness Project



Pierre Delforge
Director, High Tech Sector Energy Efficiency
Natural Resources Defense Council
pdelforge@nrdc.org

A handwritten signature in blue ink, appearing to read "jta".

Jennifer Thorne Amann
Senior Research Associate
American Council for an Energy-Efficiency Economy