

**CONGRESS, ADMINISTRATION GRAPPLE OVER ENERGY EFFICIENCY PROGRAMS**

**By Scott Blake Harris and John A. Hodges**

Congress and the Trump Administration are trying to work out the future of the appliance and equipment efficiency programs administered by the Department of Energy (DOE) and, to a lesser extent, the Environmental Protection Agency (EPA).

While it appears that significant funding cuts for the two agencies are certain for FY 2018, both Congress and the Administration seem to recognize that DOE is still obligated to carry out its statutory duties for the energy efficiency programs and needs funding to do so. It also appears that EPA's voluntary Energy Star program is likely to survive, despite the Administration efforts to end it. Finally, and perhaps surprisingly, the FY 2018 budget request contemplates substantial early-stage research on efficiency technology that will benefit industry.

So, it appears that, despite all of the turmoil in Washington, and its impact on energy and environmental policy, the existing energy efficiency programs are going to survive.

**Maintaining DOE Efficiency Programs**

DOE's budget request pledges that the agency will remain committed to meeting its deadlines for covered appliances and equipment under the Energy Policy and Conservation Act (EPCA). It says the agency is also committed to "actively enforcing its existing standards to provide a level playing field for all manufacturers." It has requested \$25 million for these duties, as well as \$1 million for building energy codes. Specifically, DOE intends to issue three efficiency standards rules for eleven products, and three test procedure rules for eleven products, in FY 2018.

DOE's budget request also provides for early-stage research and development for building energy technologies affecting appliances and equipment and their integration into grid-connected building systems. This is consistent with pronouncements by DOE officials highlighting these efforts, including a recent flurry of announcements on Energy Efficiency Day (October 5, 2017).

Concern has been raised in Congress over the level of cuts in DOE's proposed energy budget. And Secretary Rick Perry has responded in testimony, "I didn't write this budget and my job is to defend it, which from time to time is counter to what I think is good public policy" – perhaps signaling a willingness to have greater resources than reflected in the budget request. Though an FY 2018 budget passed the Senate on October 19, 2017 reconciliation of DOE's final budget is ongoing. Details will be negotiated with the House Appropriations Committee, which has proposed less severe cuts than those in DOE's requested budget.

So, the DOE efficiency programs will surely continue – managed by dedicated staff – within the constraints of available funding whatever those turn out to be.

## **Tussle Over Energy Star**

The future of EPA's Energy Star program is a matter of ongoing debate between the Administration and members of Congress.

For many years, manufacturers and EPA have entered into agreements allowing high-efficiency products to be advertised as Energy Star-qualified. The Energy Star designation is highly valued in the marketplace. The program periodically increases the qualifying levels for the Energy Star designation. This spurs manufacturers to make their products more energy efficient. Though EPA is the "brand manager" for Energy Star, responsibility under EPCA for the program is actually lodged in both DOE and EPA. The relationship between the agencies regarding the program has not always been smooth. During the Obama Administration, the two agencies entered into a memorandum of understanding formalizing their roles.

The DOE and EPA budget requests both propose to eliminate funding for the Energy Star program. EPA says there is no need to support the program with taxes, given its benefits to industry partners and consumers. It has argued that the program could be successfully administered by a non-governmental entity and that it would explore moving Energy Star into private hands.

Neither industry nor Congress has been supportive of "privatizing" Energy Star. They have argued that the program's credibility, the difficulty in obtaining resources for the program in the private sector, and potential liability issue all suggest that the program should remain in the federal government.

A House appropriations package preserves the Energy Star program while cutting its budget for FY 2018 by more than half (to \$31 million from \$66 million in 2017). The reduction is a swipe at EPA's use of outside vendors for product reviews, rather than conducting reviews internally.

At recent House hearings at which Secretary Perry testified, the focus was not on whether Energy Star should remain a federal program, but on whether it should be moved entirely to DOE. Secretary Perry indicated that DOE, and not EPA, has the relevant technical expertise, and that consolidating Energy Star at DOE would reduce bureaucracy. He said that legislation to make DOE the lead agency would make "abundant sense" to him and that DOE would be a "good slot for [Energy Star] to reside in."

This potential shift of Energy Star to DOE could affect the development of Energy Star criteria and enforcement for the better. On the other hand, EPA has had years of experience in marketing the Energy Star program, something that would be entirely new to DOE. In any case, the future of the Energy Star program is certainly up in the air – and industry would do well both to pay attention and make its view known.

## **Conclusion**

EPCA has put energy efficiency at the fore of U.S. energy policy for over 40 years, including for

appliances and equipment. The DOE standards program and the Energy Star program play important roles. That remains true despite the back-and-forth over the FY 2018 budget. Industry attention on how these programs are administered, and on potential changes, is certainly advisable.

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