



May 17, 2023

Appliance and Equipment Standards Program
U.S. Department of Energy
Building Technologies Office
Mailstop EE-5B
1000 Independence Avenue SW, Washington, DC 20585-0121

RE: Energy Conservation Program: Energy Conservation Standards for Residential Clothes Washers – Notice of Proposed Rulemaking Docket No. EERE-2017-BT-STD-0014

The National Multifamily Housing Council (NMHC) and National Apartment Association (NAA) have a significant interest in the availability and affordability of the consumer appliances that our residents rely on in their homes. Therefore, we submit the following comments in response to the Department of Energy's (DOE) Notice of Proposed Rulemaking (NOPR) on Energy Conservation Standards for Residential Clothes Washers. In addition to supporting the goals of the Energy Policy and Conservation Act (EPCA), we are committed to addressing the nation's pressing housing needs. However, we face serious obstacles in addressing rising housing costs and delivering much-needed supply. We therefore urge you to consider the impacts of this rulemaking on housing production and affordability and ensure that new residential clothes washer efficiency requirements do not undermine efforts to address America's acute housing challenges.

For more than 26 years, NMHC and NAA have partnered to provide a single voice for America's apartment industry. Our combined memberships are engaged in all aspects of the apartment industry, including ownership, development, management and finance. NMHC represents the principal officers of the apartment industry's largest and most prominent firms. As a federation of 141 state and local affiliates, NAA encompasses over 95,000 members representing more than 11.6 million apartment homes globally.

One-third of all Americans rent their housing, and our industry plays a critical role in meeting the nation's housing needs by providing apartment homes for nearly 39 million residents and contributing \$3.4 trillion annually to the economy. While we strongly support improved energy performance in the residential sector, the practical implementation of new appliance efficiency standards can create serious, and sometimes cost-prohibitive, challenges for housing providers and our residents. We are therefore concerned that this rulemaking will divert resources away from efforts to stabilize and improve appliance costs and availability and housing affordability overall.

Critical Housing Shortages and Affordability Needs

In promulgating this rule on efficiency standards for clothes washers, the DOE has stated an intention to boost energy savings, provide climate benefits and lower consumer costs. However, DOE's analysis on the necessity and justification of new standards must balance other considerations, including impacts on the nation's housing conditions.

Our organizations have long been engaged in the rulemaking process for DOE efficiency standards, ensuring that the unique needs of the apartment industry are recognized. Importantly, it is essential that we build housing at all price points to address the nation's critical housing challenges and ensure economic stability for American households.

According to recent research commissioned by NMHC and NAA, **the U.S. needs to build 4.3 million new apartment homes by 2035 to meet the demand for rental housing.**¹ This includes an existing shortage of 600,000 apartments stemming from underbuilding due in large part to the 2008 financial crisis. Further, underproduction of housing has translated to higher housing costs – resulting in a consequential loss of affordable housing units (those with rents less than \$1,000 per month), with a decline of 4.7 million affordable apartments from 2015-2020.

In fact, the total share of cost-burdened apartment households (those paying more than 30% of their income on housing) has increased steadily over several decades and reached 57.6% in 2021.² During this same period, the total share of *severely* cost-burdened apartment households (those paying more than half their income on housing) increased from 20.9 to 31.0%.³

Further, the Biden Administration has recognized this immense need to bolster the nation’s housing production and outlined a strategy to improve housing supply conditions through the Housing Supply Action Plan. The plan underscores that this national supply shortfall “burdens family budgets, drives up inflation, limits economic growth, maintains residential segregation, and exacerbates climate change.”⁴ And that “[r]ising housing costs have burdened families of all incomes, with a particular impact on low- and moderate-income families, and people and communities of color.”⁵ Of particular importance to this rulemaking, the plan specifically identifies the need to control materials costs and address supply chain challenges.

It is becoming increasingly difficult to build housing that is affordable to a wide range of income levels. Ongoing materials and equipment shortages and strained supply chain conditions pressures housing development and results in costs and delays that impact overall affordability and availability. In addition, ill-timed, unnecessary or unduly burdensome laws, policies and regulations at all levels of government prevent us from delivering the housing our country so desperately needs. Elevated regulatory costs, in particular, create a barrier to affordable housing supply. Recent research published by NMHC and the National Association of Home Builders found that regulation imposed by all levels of government accounts for 40.6 percent of multifamily development costs.⁶

¹ Hoyt Advisory Services, “Estimating the Total U.S. Demand for Rental Housing by 2035.” (2022), <https://www.weareapartments.org/>.

² American Housing Survey, U.S. Census Bureau, “NMHC tabulations of 1985 American Housing Survey microdata.” (2021).

³ *Id.*

⁴ “President Biden Announces New Actions to Ease the Burden of Housing Costs.” (May 16, 2022) <https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/16/president-biden-announces-new-actions-to-ease-the-burden-of-housing-costs/>.

⁵ *Id.*

⁶ National Multifamily Housing Council and National Association of Home Builders, “Regulation: 40.6 Percent of the Cost of Multifamily Development.” (2022) <https://www.nmhc.org/globalassets/research--insight/research-reports/cost-of-regulations/2022-nahb-nmhc-cost-of-regulations-report.pdf>.

Construction Cost and Supply Chain Challenges

As DOE looks at opportunities for increased building energy performance, it is important to recognize the immense, practical pressures on apartment development and construction that impact our ability to deliver new and renovated housing units. These challenging conditions are exacerbated by new regulatory burdens and changes to the availability and expense of essential appliances in particular.

Following extreme, pandemic-fueled volatility in product costs, supply chain stability, and staffing constraints, the apartment construction and renovation pipeline has seen some moderation, yet continues to face difficult conditions. Seventy-nine percent of respondents reported construction delays in NMHC's March 2023 Quarterly Survey of Apartment Construction and Development Activity and 47 percent reported experiencing repricing increases in projects over the last three months.⁷ Respondents experiencing delayed starts were most likely to cite project infeasibility as a cause (49% of respondents, up from 32% last quarter) and the availability of necessary products and materials, or lack thereof, continues to be of significant concern, with 21 percent of respondents citing materials sourcing and delivery challenges as a contributing factor to delayed starts.

Apartment builders and developers also continue to be impacted by escalations in essential materials and products costs. The prices of a range of essential building products and equipment continue to rise, with respondents reporting a 7% average increase in appliance costs over a three-month period. A sizeable portion of respondents further reported relying on alternative brands or suppliers to mitigate price increases and supply shortages for appliances (44%, up from 30% the previous quarter).

Therefore, we urge DOE to avoid new efficiency requirements that would undermine efforts to ease high construction costs and alleviate delays.

Impacts of New Clothes Washer Standards

Apartment providers are bulk purchasers of consumer appliances and are responsible for ensuring our residents' homes are well-equipped with safe, effective, and affordable products that meet their performance expectations. We are concerned that these new standards will further stress our construction pipeline, create operations and performance challenges and exacerbate the cost pressures facing the housing industry and our residents. Despite the NOPR's assertions of cost savings, we believe these new requirements will inevitably result in higher housing costs. We therefore urge the DOE to reconsider the economic impact of these new standards on manufacturers and consumers, the potential lessening of clothes washer utility and performance and additional impacts on national housing priorities, as required by EPCA.⁸

Multifamily builders and developers bear the upfront expenses of higher priced products and delays, but these costs are both directly passed along to consumers and broadly raise consumer housing costs through the impacts of diminished housing supply. These new proposed requirements also come at a time of continued supply chain and pricing uncertainty. Enhanced efficiency standards will result in new costs, as well as design and performance requirements that impact appliance choice and availability, which are detrimental to new housing production and renovation. These proposed

⁷ National Multifamily Housing Council, "Quarterly Survey of Apartment Construction & Development Activity." (March 2023) <https://www.nmhc.org/research-insight/nmhc-construction-survey/2023/quarterly-survey-of-apartment-construction-development-activity-march-2023/>.

⁸ 42 U.S.C. 6295(o)(2)(B)(i)(I), (IV) and (VII).

standards also raise questions of ongoing operations and maintenance impacts, as manufacturers have voiced concerns that the design and performance changes required by the NOPR would undermine the efficacy and operation of these appliances. Then possibility of longer running times, the need for multiple wash cycles and increased design stress on the equipment should be evaluated for the costs and impacts to the use, repair and lifespan of these appliances.

Moreover, this rulemaking comes as part of a series of similar rulemakings DOE is proposing - all seeking to change performance standards for essential residential appliances. According to the DOE's August 2021 Report to Congress on Energy Conservation Standards Activity, the Agency has promulgated seventy-one energy conservation standards rulemaking notices since its last report in July 2019.⁹ Later, in 2022 the Biden Administration took over 100 actions related to energy efficiency standards.¹⁰ The housing industry is strained to operationalize this volume of product and equipment changes in terms of impact to costs and design. In addition, we are concerned that this quantity of changes for marginal efficiency gains will outpace the ability of the manufacturing sector and our supplier partners to alleviate existing product shortages and delays, while creating new barriers to cost-effective and timely appliance procurement. We therefore urge DOE to consider the collective impacts of these requirements and recognize that, in practice, the effect of even relatively modest, individual pricing increases is magnified when housing providers must manage cost escalations across multiple product classes at once.

Finally, clothes washers are already highly energy and water efficient, and the multifamily buildings they service have made significant energy and water performance gains in recent years, with many properties achieving EPA EnergyStar, earning high EPA Water Scores or other recognition of their distinguished performance and efficiency. Efforts, like those proposed here, that result in only negligible efficiency gains should be balanced against the costs and burdens of equipment changes, production disruption and performance impacts. Such challenges can result in undue delays or cancellation of construction and renovation efforts that would result in broader building performance improvements.

Conclusion

The apartment industry supports the goal of improving energy efficiency and lowering carbon emissions. At the same time, improving housing affordability and availability are key national priorities. We are committed to working with policymakers to further energy efficiency goals while supporting the creation of more housing, preserving affordability and ensuring that every American has a safe, quality place to call home.

Respectfully Submitted by:

National Apartment Association

National Multifamily Housing Council

⁹ Department of Energy, "Energy Conservation Standards Activities Report to Congress." (August 2021)

<https://www.energy.gov/sites/default/files/2021-08/EXEC-2019-005022%20-%20Final%20Report%20ksb.pdf>.

¹⁰ "DOE Proposes New Standards for Residential Appliances to Save Americans Billions in Annual Energy and Water Bill." (February 10, 2023) <https://www.energy.gov/articles/doe-proposes-new-standards-residential-appliances-save-americans-billions-annual-energy>.