

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

NATURAL RESOURCES DEFENSE)
COUNCIL; CENTER FOR)
BIOLOGICAL DIVERSITY;)
CONSUMER FEDERATION OF)
AMERICA; MASSACHUSETTS UNION)
OF PUBLIC HOUSING TENANTS;)
PUBLIC CITIZEN; and SIERRA CLUB,)

Plaintiffs,)

v.)

DAN BROUILLETTE, in his official)
capacity as the Secretary of the United)
States Department of Energy; and the)
UNITED STATES DEPARTMENT OF)
ENERGY,)

Defendants.)

Case No. 20-cv-9127

ECF Case

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. During the energy crisis of the 1970s, Congress recognized the risks of uncontrolled, inefficient energy use. In response, it tasked the U.S. Department of Energy with ensuring continued energy-efficiency improvements for consumer and commercial products—improvements that save consumers and businesses money while also reducing unnecessary electricity generation. This task remains as vital now as ever. But for the past four years, DOE has utterly abdicated its responsibility.

2. In the Energy Policy and Conservation Act (EPCA), Congress established a program to ensure that common consumer and commercial products that use large amounts of energy meet minimum energy conservation standards. EPCA directs DOE to meet specific timetables to periodically review and revise these standards to ensure that they are

set at the maximum level of energy efficiency that is technologically feasible and economically justified.

3. Over the past four years, DOE has missed EPCA deadlines for more than two dozen consumer and commercial products. These overdue products include energy-intensive home appliances such as furnaces, air conditioners, water heaters, dishwashers, and clothes dryers, as well as commercial equipment used by countless businesses, such as motors, walk-in coolers, and transformers. Additional significant, technologically feasible, and economically justified energy savings are available for these overdue products.

4. DOE's failure to comply with Congress's explicit deadlines for reviewing and revising energy conservation standards for the overdue products violates EPCA. DOE's foot-dragging results in greater—and avoidable—energy use, causing increased air pollution that harms public health and the environment, and higher energy bills for consumers and other users of the overdue products.

5. Plaintiffs bring this suit to end DOE's unlawful abdication of its duties and ask this Court to set an expeditious, enforceable schedule compelling DOE to comply with EPCA's requirements for the review and revision of energy conservation standards for the overdue products.

PARTIES

Plaintiffs

6. Plaintiff Natural Resources Defense Council (NRDC) is a national, nonprofit environmental and public health organization with several hundred thousand members nationwide. NRDC engages in research, advocacy, media, and litigation related to protecting public health and the environment. One of NRDC's top priorities is to fight

climate change by cutting carbon emissions and building the clean energy economy. As part of this work, NRDC promotes the use of sustainable energy sources and energy efficiency to reduce greenhouse gas pollution, lower consumer energy bills, and minimize the adverse environmental impacts of electricity generation and fossil fuel production. NRDC has participated in the majority of DOE's rulemakings developing energy conservation standards for consumer products and commercial equipment.

7. Plaintiff Center for Biological Diversity is a national nonprofit organization with more than one million members and online activists who care about protecting the natural environment, including wildlife, from climate change and other environmental degradation. The Center uses scientific expertise and legal action to defend endangered species and educates the public on threats to wildlife and biodiversity. Among the Center's priorities are initiatives that advance the critical energy transition to clean and renewable energy.

8. Plaintiff Consumer Federation of America (CFA) is an association of more than 250 nonprofit consumer organizations established to advance the consumer interest through research, advocacy, and education. For more than twenty years, CFA has supported and advocated for cost-effective energy-efficiency policies, practices, and standards as they benefit consumers through lower energy bills and defer the need for additional energy supplies, which also helps to keep customers' utility rates down. CFA has participated in countless rulemakings, requests for information, and other proceedings involving DOE's energy conservation standards program for consumer products.

9. Plaintiff Massachusetts Union of Public Housing Tenants (MUPHT) is a membership organization that represents the interests of the tens of thousands of families

that reside in public housing in Massachusetts. The overwhelming majority of MUPHT's members live on annual incomes well below the median income in Massachusetts. For well over a decade, MUPHT has strongly supported strengthening energy conservation standards promulgated by DOE.

10. Plaintiff Public Citizen is a nonprofit consumer advocacy organization with members in all fifty states. It routinely appears before Congress, administrative agencies, and the courts to support the creation and enforcement of laws and regulations to protect consumers, workers, and the general public. Among other issues, Public Citizen fights for strong health, safety, and environmental protections.

11. Plaintiff Sierra Club is a national, nonprofit environmental organization with hundreds of thousands of members nationwide. Sierra Club's purposes include enhancing public health and the environment and practicing and promoting the responsible use of the Earth's ecosystems and resources. Energy efficiency is crucial to achieving Sierra Club's mission, and Sierra Club has a variety of initiatives designed to encourage businesses, individuals, and utilities to undertake energy conservation measures to reduce greenhouse gas pollution, lower consumer energy bills, and minimize the adverse environmental impacts of electricity generation and oil and natural gas production.

12. Plaintiffs bring this suit on their own behalf. Plaintiffs are organizations that use or own products with overdue standards and intend to replace those products in the near future. DOE's failure to meet EPCA's deadlines for the overdue products harms plaintiffs by restricting their opportunities to purchase the most energy-efficient versions of those products.

13. Plaintiffs also bring this suit on behalf of their members. Plaintiffs' members include consumers and business owners who use, or whose businesses use, products with overdue standards and intend to replace those products in the near future. DOE's failure to meet EPCA's deadlines for the overdue products harms these members by restricting their opportunities to purchase the most energy-efficient versions of those products.

14. Plaintiffs also have members who use, and pay for the energy consumed by, overdue products that are owned and maintained by a third party, like a landlord. These members are harmed by higher energy bills resulting from DOE's failure to meet EPCA's deadlines for the overdue products.

15. Plaintiff CFA's members include member organizations that represent individual consumers who use products with overdue standards and intend to replace those products in the near future. DOE's failure to meet EPCA's deadlines for the overdue products harms these consumers through higher energy bills and by restricting their opportunities to purchase the most energy-efficient versions of those products.

16. Plaintiffs also have members who live near power plants that burn fossil fuels and emit pollutants that harm public health and the environment. DOE's failure to meet EPCA's deadlines for the overdue products means consumers and businesses are using less efficient products that increase the demand for electricity generation and, consequently, emissions from fossil-fuel power plants. DOE's failure to meet EPCA's deadlines for the overdue products thus harms plaintiffs' members by increasing their exposure to pollutants emitted from nearby fossil-fuel power plants.

17. Plaintiffs also have members who live or own businesses in areas at risk of harm from severe weather events and other climate-related impacts, such as flooding, storm

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