

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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STATES OF NEW YORK, CALIFORNIA,  
COLORADO, CONNECTICUT, ILLINOIS, MAINE,  
MARYLAND, MINNESOTA, NEW JERSEY,  
OREGON, VERMONT, WASHINGTON, THE  
COMMONWEALTH OF MASSACHUSETTS, THE  
PEOPLE OF THE STATE OF MICHIGAN, THE  
DISTRICT OF COLUMBIA, AND THE CITY OF  
NEW YORK,

**COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

Plaintiffs,

Case No. 20-cv-9362

v.

DAN BROUILLETTE, as SECRETARY OF THE  
UNITED STATES DEPARTMENT OF ENERGY,  
and UNITED STATES DEPARTMENT OF  
ENERGY,

Defendants.

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**INTRODUCTION**

1. Plaintiffs, the States of New York, California, Colorado, Connecticut, Illinois, Maine, Maryland, Minnesota, New Jersey, Oregon, Vermont, Washington, the Commonwealth of Massachusetts, the People of the State of Michigan, the District of Columbia and the City of New York, (collectively plaintiffs), representing over 111 million people of the United States, bring this action to challenge the failure of the United States Department of Energy (DOE) and its Secretary, Dan Brouillette (collectively DOE) to meet federal statutory deadlines for reviewing and strengthening energy efficiency standards under the Energy Policy and Conservation Act (EPCA or the Act), Subchapter III, 42 U.S.C. §§ 6291-6317, as amended.

2. EPCA authorizes national energy conservation standards for a variety of consumer and commercial products and industrial equipment. Among other things, EPCA

establishes initial minimum energy efficiency standards for covered products and requires DOE to prescribe new or amended standards by rulemaking. To ensure that standards are set at the maximum efficiency level that is technologically feasible and economically justified, EPCA mandates that DOE meet certain deadlines for periodic review and revision of those standards. *See* 42 U.S.C. §§ 6295(m)(1), 6313(a)(6), 6316(a).

3. Today, energy efficiency standards established under EPCA cover more than 60 categories of residential and commercial products and commercial equipment. Together, these products use about 90 percent of the total amount of energy consumed in homes in the United State, 60 percent of the energy used in the country's commercial buildings, and 30 percent of the energy used in our nation's industries.

4. The energy conservation standards program for consumer appliances and commercial equipment developed under EPCA has been highly effective in improving our nation's energy efficiency, saving consumers, businesses and governments money, and avoiding emissions of greenhouse gases and other air pollutants. DOE estimates that, by 2030, efficiency standards adopted through 2016 will save more energy than the entire nation consumes in one year and will save consumers more than \$2 trillion on their utility bills. Reduced energy use also avoids emissions of harmful air pollutants, including those that contribute to climate change. According to DOE, existing standards will avert emissions of more than 7.9 billion metric tons of carbon dioxide (CO<sub>2</sub>), an amount greater than all United States greenhouse gas emissions generated in a year.

5. Despite Congress' explicit directive that DOE regularly evaluate existing efficiency standards to determine whether such standards can be made stronger, DOE has missed EPCA's deadlines for reviewing and updating efficiency standards for 25 consumer and

commercial or industrial product categories. A list of these products is attached to the Complaint as Attachment 1.

6. According to energy experts, updated standards for these 25 product categories could save over \$580 billion in energy costs and avoid over two billion metric tons of CO<sub>2</sub> emissions by the year 2050.

7. DOE's failure to meet its statutory deadlines deprives plaintiffs, their residents and their businesses of the many benefits updated standards would provide, including conservation of natural resources, lower energy bills, a more reliable electricity grid, and reduced emissions of harmful air pollutants that contribute to climate change and threaten public health.

8. DOE's unlawful delay requires prompt, appropriate redress from this Court.

9. In EPCA's citizen suit provision Congress conferred on this Court the explicit authority to order prompt relief that secures DOE compliance with statutory deadlines for reviewing and amending existing standards. *See* 42 U.S.C. § 6305(a).

10. Accordingly, plaintiffs request that this Court order the following relief: (a) issue a declaratory judgment pursuant to 28 U.S.C. § 2201(a) stating that DOE has failed to meet deadlines specified under EPCA for reviewing and updating energy efficiency standards for the 25 categories of products described in this complaint; and (b) issue a permanent injunction pursuant to 28 U.S.C. § 2202 and 42 U.S.C. § 6305(a) requiring DOE to comply with its statutory deadlines and other requirements for such products according to an expeditious schedule to be determined and enforced by this Court.

**JURISDICTION, PRE-SUIT NOTICE, AND VENUE**

11. This Court has jurisdiction over this action pursuant to 42 U.S.C. §§ 6305(a)(2), (3) (EPCA's citizen suit provision); 28 U.S.C. §§ 1331 (federal question), 2201 (declaratory judgment), 2202 (injunctive relief), 1361 (mandamus relief), and 1346(a)(2) (civil action against the United States); and 5 U.S.C. §§ 702 and 706 (scope of review).

12. DOE's failure to comply with EPCA's statutory deadlines is a failure to perform a non-discretionary duty and is subject to judicial review, 42 U.S.C. § 6305(a)(2), (3).

13. DOE's failure to comply with its statutory deadlines is also agency action unreasonably delayed and unlawfully withheld, subject to judicial review pursuant to the Administrative Procedure Act (APA), 5 U.S.C. §§ 702, 706.

14. To the extent notice is required with respect to any of the claims herein, on August 10, 2020, plaintiffs sent to the DOE Secretary, with a copy to the Federal Trade Commission (FTC), a 60-day notice of intent to sue, based on DOE's failure to comply with its non-discretionary duty to meet specified deadlines for reviewing and updating efficiency standards for 25 consumer and commercial product categories. A copy of the notice is attached as Attachment 2.

15. More than 60 days have passed since plaintiffs sent the notice letter, and DOE has yet to fulfill its mandatory obligations.

16. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1391(e) because defendants are an officer and an agency of the United States and two plaintiffs, the State of New York and the City of New York, reside in this district.

## PARTIES

### Plaintiffs

17. The States of New York, California, Colorado, Connecticut, Illinois, Maine, Maryland, Michigan, Minnesota, New Jersey, Oregon, Vermont, Washington, and the Commonwealth of Massachusetts are each sovereign entities that bring this action on their own behalf to protect state property, on behalf of their citizens and residents to protect their health and well-being, and to protect natural resources held in trust by each respective state.

18. The District of Columbia is a municipal entity that brings this action on its own behalf to protect District property and on behalf of its residents to protect their health and well-being.

19. The City of New York is a municipal entity that brings this action on its own behalf to protect City property and on behalf of its residents to protect their health and well-being.

### Plaintiffs' Interests

20. Plaintiffs have significant proprietary and sovereign interests in updated energy efficiency standards, as well as the economic and environmental benefits such standards confer. Improved energy efficiency benefits consumers, businesses and governments by decreasing energy consumption, lowering energy bills and increasing energy reliability.

21. Energy efficiency standards also reduce air pollution that is harmful to public health and the environment, such as CO<sub>2</sub> and other gases that contribute to climate change. Because increased energy efficiency avoids unnecessary greenhouse gas emissions associated with the burning of fossil-fuels, improving efficiency is a key part of plaintiffs' strategies to combat climate change.

22. Therefore, plaintiffs rely on national energy efficiency standards to complement

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