

Client Alert

Department of Energy Issues Third Request for Information on Proposed Changes to its Appliance Standards Program

October 30, 2018

The U.S. Department of Energy has issued its third [Request for Information](#) (RFI) since the beginning of the new administration, again seeking comment on possible changes to the federal appliance standards program. As described in our client alerts regarding DOE's [First](#) and [Second](#) RFIs, DOE administers the Energy Policy and Conservation Act (EPCA), which requires the Department to set and enforce minimum energy conservation standards for a variety of products ("covered products") and to establish test procedures for demonstrating compliance with those standards.

DOE's most recent RFI, titled "Request for Information on the Emerging Smart Technology Appliance and Equipment Market," solicits stakeholder input on "the emerging market for appliances and commercial equipment that incorporate smart technology." DOE seeks information on the use of smart technology in appliances to ensure that the agency "does not inadvertently impede such innovation in fulfilling its statutory responsibilities in setting efficiency standards for covered products and equipment." In responding to the RFI, stakeholders are encouraged to address any issue they consider worthy of further discussion.

The new RFI reinforces DOE's commitment to modifying the EPCA program to be more responsive to emerging conditions in the appliance markets. The first RFI asked for comment on whether a more market-based program could attain the same or better conservation and efficiency improvements as the current command-and-control regime. The second sought proposals to streamline the current EPCA rulemaking processes. And the third RFI highlights a constant theme at DOE since the new administration arrived: that technological progress is outpacing the time-consuming EPCA rulemaking process, and that regulation should at best catalyze, but at worst not impede, that progress.

DOE sought comments on similar topics several years ago in an RFI entitled "[Energy Conservation Program: Treatment of 'Smart' Appliances in Energy Conservation Standards and Test Procedures](#)" (2011), but that RFI did not result in either rulemakings or legislative amendments. The new RFI underscores the rapid development of smart technologies since 2011, with new smart appliances hitting the market every few weeks.

The input provided by companies will help the agency reform the energy conservation program so as to encourage energy efficiency without stifling innovation in the smart appliance market. Stakeholders who may be impacted by the outcome of DOE's EPCA redesign – particularly manufacturers and importers of smart appliance technology – are strongly encouraged to participate in this docket by filing comments on or before November 16, 2018.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

Matthew B. Welling

Partner – Washington, D.C.

Phone: +1.202.624.2588

Email: mwelling@crowell.com

Tyler A. O'Connor

Partner – Washington, D.C.

Phone: +1.202.624.2704

Email: toconnor@crowell.com