

Aug. 5, 2019

13 tactics for obstructing energy efficiency

BY PATTERSON CLARK, POLITICO PRO DATAPOINT

Attempting to halt or roll back a broad spectrum of efficiency standards and regulations, the Trump administration has employed a variety of maneuvers, including rollbacks, delays, failures to update testing procedures, non-enforcement and reclassification of products to avoid standards. However, the administration's strategy for killing rules has fared poorly in court: Across all agencies, the Trump administration has either lost or retreated from deregulation lawsuits in 43 of 46 cases — a success rate of less than 7 percent.

CURRENT RULE STATUS

As of August 1



Replacement rule proposed



Final rule published (Effective date)



Obama-era rule delayed or dropped



Trump administration move reversed or stayed through court action

Methods for hindering energy efficiency

Before an industry can comply with a legislative mandate, an administrative agency must design regulations, release them for public comment and reformulate final rules, which are reviewed, corrected and published before becoming effective. The agency must also set testing and reporting requirements. At various stages in that process, the Trump administration has deployed several stratagems for interfering with energy efficiency rules.

TRUMP ADMINISTRATION ACTIONS

1 Roll back regulations

The administration has launched several energy efficiency rollbacks.



DOE proposed repealing efficiency standards for most light bulbs, set to come in effect in 2020.



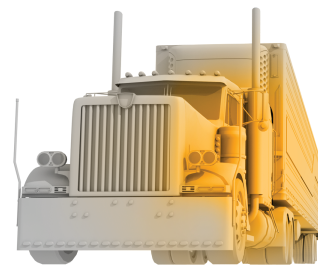
(Sept. 6)



Replacement of the Obama administration's strict Clean Power Plan with Trump EPA's weaker Affordable Clean Energy rule.



EPA and DOT want to freeze fuel efficiency standards for light-duty vehicles.

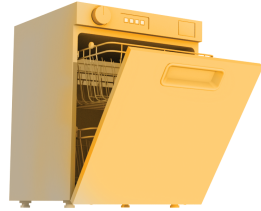


A court stayed EPA's decision not to enforce efficiency regulations for "gliders," new truck bodies with old engines. EPA is proposing a repeal.

Obama-era efficiency rules for truck trailers were stayed by a court after Trump's EPA declined to defend them. EPA is now reviewing the rule,

2 Change definitions or add categories

Trump's DOE wants to change definitions and create new categories of certain devices so manufacturers can sidestep efficiency standards already in place.



DOE granted a petition to create a new class of shorter-cycle, less-efficient dishwashers, arguing that efficiency standards do not apply to them.



DOE wants to classify super-efficient condensing gas furnaces as a separate product, so that less-efficient furnaces can meet weaker standards.

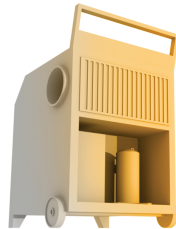
3 Refuse to publish standards

Near the end of the Obama administration, DOE published final efficiency standards for four categories of appliances and equipment.

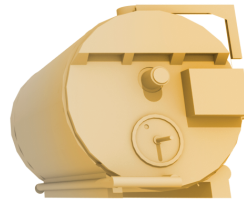
For 45 days, the standards were made accessible for any corrections before the final step of submitting the standards to the Federal Register, which would make them effective. But the Trump administration refused to publish the standards.



A district court ordered DOE to publish the standards. DOE is appealing.



Portable
air conditioners



Commercial
packaged boilers



Air
compressors



Uninterruptible
power supplies

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4 Delay implementing standards

DC



DOE delayed release of Obama-era energy efficiency standards for ceiling fans.

D



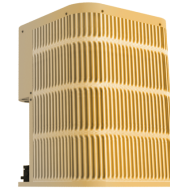
DOE delayed new federal building efficiency standards for nine months in 2017 before they came into effect.

DCR



DOT first delayed, then rolled back, an Obama-era rule increasing penalties for carmakers violating fuel efficiency standards.

DC



DOE postponed elements of an Obama-era rule related to efficiency testing for central air conditioners and heat pumps.

5 Ignore laws requiring updates to standards

Statutes require DOE to review and update appliance standards every 6 years and also update their testing procedures. As of February 2019, DOE had missed deadlines for reviewing and updating standards for 18 different appliance/equipment categories and missed more than a dozen deadlines for updating testing procedures.



18 missed deadlines: Residential clothes washers, small electric motors, pool heaters, water heaters, clothes dryers, room air conditioners, cooking products, refrigerators and freezers, fluorescent lamp ballasts, dedicated outdoor air systems, computer room ACs, variant refrigerant flow ACs and heat pumps, commercial water heaters, evaporatively-cooled commercial ACs, water-cooled commercial ACs, metal halide lamp fixtures, distribution transformers and microwave ovens.

6 Ignore mandates to set standards

In 2007, Congress passed a law requiring DOE to set energy efficiency standards for manufactured housing. A draft of the rule was sent to OMB for review in November 2016, but was withdrawn in late January 2017.

D



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7 Make rule-making harder

DOE cannot weaken standards, but the agency can hinder newer, stronger standards. Trump's DOE proposes changes in its Process Rule, adding additional steps and requirements to its regulation process, which make it much more difficult to set new efficiency standards.



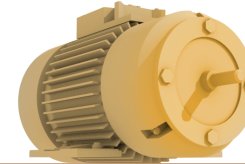
8 Issue default testing waivers

DOE proposes to make it easier for manufacturers to obtain interim waivers for efficiency testing. If DOE doesn't respond to a waiver proposal within 30 days, a company could proceed as though a waiver were granted.



9 Approve alternative testing methods

DOE proposes alternative standards for testing the efficiency of small electric motors that would "reduce testing burdens on manufacturers."



10 Dodge court decisions

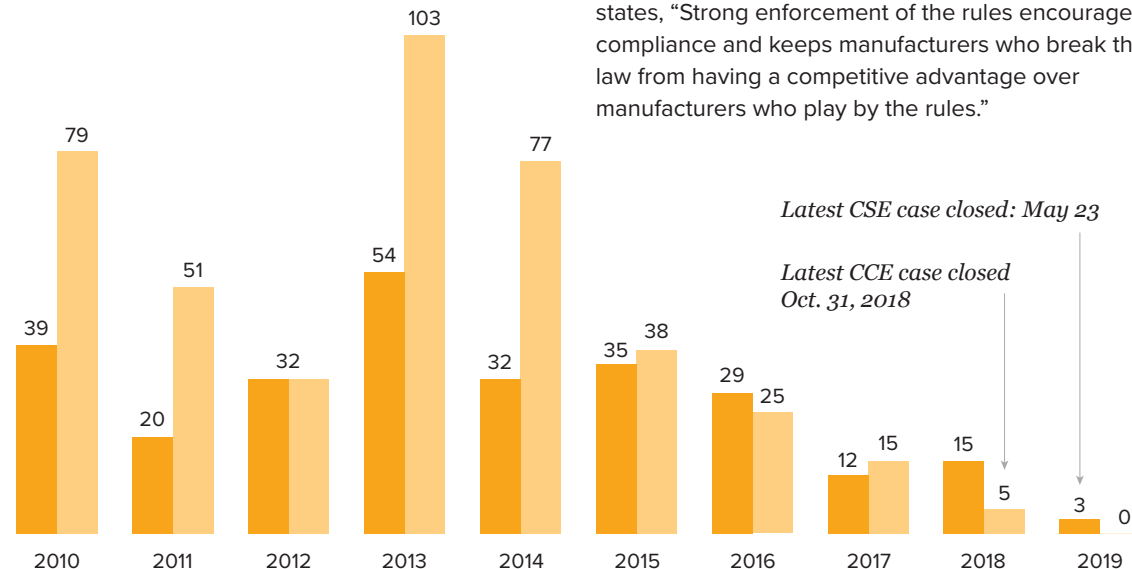
When the Trump administration obstructs standards, they are often sued. To avoid losing a court battle, an agency will sometimes withdraw the action to shed the lawsuit — then issue another delay, which results in yet another lawsuit, according to a POLITICO report. The tactic can extend litigation for years, sap legal funds from organizations filing suits and further delay regulations.

11 Curtail enforcement

It might be too early to conclude whether DOE is relaxing its enforcement on energy efficiency, but the number of enforcement actions for energy efficiency violations has substantially dropped since Donald Trump became president. Energy efficiency enforcement cases are typically resolved within a year or two.

COMPLETED ENFORCEMENT CASES
AS OF Aug. 1

- Conservation standards enforcement
Ensures manufacturers meet energy and water conservation standards
- Compliance certification enforcement
Ensures manufacturers provide information demonstrating compliance with standards



The website of DOE's Office of the General Counsel states, "Strong enforcement of the rules encourages compliance and keeps manufacturers who break the law from having a competitive advantage over manufacturers who play by the rules."

CHALLENGES ON THE HILL

12 Defund efficiency efforts

White House budget requests consistently call for heavy reductions in funding DOE's Office of Energy Efficiency and Renewable Energy. So far, Congress has ignored Trump's requests.



13 Veto efficiency?

Both the Senate and House have recently advanced bipartisan bills for improving energy efficiency. It is unclear whether the president would sign them into law if the bills were passed by Congress.

The argument for maintaining appliance standards

In April, Andrew deLaski of the Appliance Standards Awareness Project testified before the House energy subcommittee, outlining the benefits of energy efficiency regulation for appliances, which he said “helps make our energy systems more resilient, reliable and affordable.”

\$500

Annual savings in a typical household's utility bills because of current standards.

300,000

Jobs created by current standards, as of 2016.

8 billion

Metric tons of carbon dioxide that will have been spared from entering the atmosphere by 2030 because of existing energy efficiency standards.

\$23 billion

Annual savings for businesses that buy and use products covered by appliance standards.

\$2 trillion

Saved by consumers and businesses by 2030 because of current standards.

Sources: DOE; OMB; Lowell Ungar and Therese Langer, American Council for an Energy-Efficient Economy; Andrew deLaski, Appliance Standards Awareness Project; POLITICO staff reports; Utility Dive; NRDC; Brookings Institution; Institute for Policy Integrity; House Energy and Commerce Committee

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