AHAM
association of home appliance manufacturers
1111 19th street, nw ▲ suite 402 ▲ washington, dc 20036
202.872.5955 ▲ fax 202.872.9354 ▲ www.aham.org

Testimony Of
Joseph M. McGuire
President
Association of Home Appliance Manufacturers
Before the
Subcommittee on Energy and Air Quality
Of the
Committee on Energy and Commerce
U.S. House of Representatives

May 1, 2007

Mr. Chairman and Members of the Subcommittee, thank you for providing me the opportunity to testify on appliance efficiency standards. My name is Joe McGuire and I am President of the Association of Home Appliance Manufacturers (AHAM) which is the national trade association representing the manufacturers of the vast majority of home appliances sold in the United States. AHAM members include producers of major, portable and floor care home appliances, and companies that supply these manufacturers. I am here today to testify as a part of the Committees' consideration of energy efficiency legislation, and to announce a historic voluntary agreement on new appliance efficiency standards and incentives, which we hope become included in law

AHAM and its members have been very involved in the development and evolution of the federal appliance efficiency standards program, including the several legislated changes to the program, most notably the National Appliance Energy Conservation Act of 1987 and the Energy Policy Act of 2005. AHAM members are also partners in the Energy Star program which builds on the minimum efficiency standards of DOE to help transform the market for high efficiency appliances.

The home appliance industry's commitment to efficiency is evidenced by the nearly 60% decrease in clothes washer energy consumption, 47% refrigerator energy consumption decrease and the 38% drop in dishwasher energy consumption since 1990.

I. BACKGROUND ON FEDERAL APPLIANCE ENERGY STANDARDS

The National Appliance Energy Conservation Act (NAECA) was enacted in 1987 and provides the statutory framework for appliance energy efficiency standards. Under this law, DOE is required to establish and revise minimum energy efficiency standards for many AHAM home appliances including refrigerators, clothes washers and dryers, dishwashers, ranges and ovens, room air conditioners and dehumidifiers. While the appliance standards program administered by DOE is far from perfect, it has been very productive in the case of home appliances and enormous energy and carbon savings have resulted. In addition, it has become clear in the marketplace that the DOE appliance standards program works very well in partnership with market awareness programs such as Energy Star and incentive programs such as tax credits to deliver more efficiency.

Federal residential energy efficiency standards that have gone into effect since 1988, or will take effect by the end of this year, will save a cumulative total of 34 Quads of energy by 2020 and 54 Quads by 2030. The cumulative net present value of the consumer benefits of the standards amounts to $93 billion by 2020 and $125 billion by 2030. Over half of the energy savings are attributable to refrigerator/freezers, currently in third generation standards, and about to commence a rulemaking for fourth generation standards next year, and clothes washers,

currently in third generation standards and will undergo a rulemaking for fourth generation standards.

In the case of DOE covered products produced by AHAM members, all products have gone through DOE appliance efficiency standards rulemakings, while some, as mentioned above, have gone through multiple regulatory proceedings. The same few full line companies have absorbed much of the cost of multiple rulemakings and standards.

There are two fundamental strengths of NAECA, and other amendments to energy law, that in our view need to be maintained. The first is the process used to determine if appliance standards are justified. The law requires DOE to determine if significant energy savings can be saved by appliance standards employing standards which are based on maximum technological feasibility and economic justification. DOE must then determine if the potential energy savings will justify the resulting costs to consumers and manufacturers and whether the standards result in the loss of any product functionality or feature. This type of analysis is appropriate but complex if done correctly. For example, DOE relies on the National Institute of Standards and Technology and Lawrence Berkeley Laboratory to perform engineering and economic analyses. The resources to complete such analyses are difficult to find at the federal level and even harder at the state level.

This leads me to the second fundamental strength of NAECA. AHAM believes that a federal program of appliance standards is the only way to achieve significant energy savings, while also providing manufacturers with nationwide standards and a national marketplace,

instead of a patchwork of state standards that increases distribution and manufacturing costs. The national market concept embodied in NAECA is a benefit for consumers for whom economies of scale and global competition result in lower cost products and a full range of product features.

NAECA was enacted in 1987 in response to the growing tendency of states to enact appliance standards programs. While well intentioned, these various state efforts, which were in response to a perceived lack of action at the federal level, were creating a balkanization of the national market, and forcing manufacturers to consider multiple product and manufacturing lines. Consumers would be the losers in such a regime by bearing the impact of the increased costs of production.

In fact, since the first federal energy act in the 1970s, and particularly since the enactment of NAECA in 1987, the essential policy of federal energy law has been to provide for federal standards for a range of energy consumer products, a schedule of rulemakings for possible revisions to the standards, and complete preemption of state standards, with limited and specific exceptions. Since then, and as subsequently updated for commercial and plumbing products, the law has been successful in saving many quads of energy, limiting the need for new power plants, limiting utility emissions, avoiding carbon emissions and placing billions of dollars in utility bill cost savings in consumers' hands.

Under the federal scheme, states are generally preempted from implementing their own standards for products covered under the federal act unless they receive an exemption from

preemption from the Department of Energy (DOE). States must pass a strict test which shows unusual and compelling state energy needs, the state has exhausted non-regulatory options and the proposed state regulation would not limit product functionality or features. Since 1987, there has only been one petition for exemption from preemption, by California for a water use requirement for clothes washers, which was denied by DOE. The petition was not supported by any of the efficiency advocacy groups which helped craft the preemption language of NAECA.

In addition, I want to note that it has been proposed to eliminate federal preemption for products for which the Department of Energy has determined that no standard is warranted. For instance, if the DOE had conducted a rulemaking, and in its analysis determined that there were no feasible opportunities to increase the energy efficiency of products without causing adverse impacts on consumers or manufacturers, then such a determination would trigger a lapsing of federal preemption. The provision would encourage states to adopt separate appliance standards for such products which could differ and which would balkanize the market, driving up manufacturer and consumer costs. Such a "balkanized" patchwork set of state standards would have detrimental impacts on consumer choice, distribution, design and planning, requiring multiple retooling costs. This result is what the federal energy law is meant to prevent. Importantly, one more pressure will have been added to eliminate domestic production in order to gain the flexibility of sourcing to foreign producers. Ironically, states could impose standards on exactly those products which have been demonstrated not to be worthy of standards.

It also has been proposed to authorize DOE to establish regional standards for space heating and air conditioning products – including room air conditioners – allowing different

energy efficiency standards in different parts of the country. Such a patchwork of state efficiency standards would require manufacturers to produce different products for different parts of the country, which would have the result of increasing costs, burdening distribution and limiting consumer choice. Compliance would be a nightmare. This is unreasonable.

AHAM's product scope which includes room air conditioners have never been considered for regional standards, and no exemption from federal preemption petition has ever even been rumored by any state or region. Room air conditioners have been subject to two federal standards, and a third is pending under a DOE schedule submitted to Congress and federal court order.

Admittedly, the federal system has its flaws. In every administration, resources have been the Achilles heal of DOE's standards office. In addition, the multiple requirements and products added to the federal system by NAECA, EPACT of 1992 and EPACT of 2005 have created multiple statutory deadlines for DOE that cannot practically be met. We have learned much since 1987 and part of what was learned is that if DOE, through an objective analysis, subject to public comment, determines a standards update is not a priority or necessary, then this should not result in a statutory violation. But it does, and resource limitations result in additional violations.

But these instances should not be the cause for abandoning the federal approach and going back to a state-by-state system. The states do not have the resources, expertise or needed national perspective to undertake these regulations, and the result is a negative for consumers

and energy conservation. The choke points in the system have been dealt with over the years through considered negotiations by manufacturers, advocacy groups and state energy officials. AHAM has been involved in more of these negotiations than any industry group. The result has been steady progress in appliance efficiency. Do manufacturers and advocacy groups agree on every aspect of these issues? No. But we have always agreed that national standards, predictability and certainty are important.

And we have also learned that minimum standards can do the most good for energy efficiency when combined with market awareness programs like Energy Star and market transformation programs like manufacturer tax credits. Essentially manufacturers are more likely to agree to more stringent appliance standards if the added investment can be partially recouped through tax credits designed to reward production of products that exceed the federal standards. The concept employs strict performance metrics and rolling baselines to ensure manufacturers are moving the needle with their production.

From a public policy process standpoint, AHAM believes there are steps the Congress can take to deliver new energy savings to the nation in the area of appliances, and to lock in procedures that will incentivize DOE and stakeholders to keep their eyes on the ball. First, as mentioned before, DOE needs to be authorized and appropriated sufficient funds to carry out these programs and to meet statutory deadlines. Second, DOE should revisit and strengthen its Process Improvement Rule which provided a forum for all stakeholders to participate in priority setting for appliance efficiency regulations and which fostered an informal regulatory negotiations climate. We believe that this rule has served the system well, but certainly DOE

and stakeholders should consider how to expedite the rulemakings, particularly those under court order. This review can be best accomplished, not by the Congress, but by the reinstitution of the advisory committee terminated by the previous administration.

Third, DOE should be required to review all covered products at a regular interval, say every five years, to determine if updates are necessary. Fourth, federal preemption of states should not be suspended. There are already provisions in federal law for states to petition for exemptions from preemption and to sue DOE if final rules are considered inadequate. States should participate in the Process Improvement Rule dialogues to influence DOE actions. Fifth, DOE should report to Congress on a regular basis on its progress in meeting deadlines and the choke points, if any, for failure to do so.

Sixth, we support providing DOE with authority to abbreviate its rulemaking process if stakeholders have come to an agreement on a new efficiency standard. We support this provision as it assists DOE in adopting standards for which there is no controversy and that which haws been fully vetted by industry and advocacy organizations.

And lastly, as I hope is the case today, Congress should be open to agreements negotiated among stakeholders on appliance efficiency that might expedite policy decisions and break new ground in environmental protection and energy efficiency. That was the case in 2005 and we hope again in 2007.

II. THE ENERGY POLICY ACT OF 2005

EPACT '05 included appliance efficiency standards for dehumidifiers effective in 2007 and 2012. In addition, the law provided for national appliance efficiency standards for commercial clothes washers, including a water conservation standard for these products. The law also required that DOE conduct a review of battery chargers and external power supplies to determine if they merit efficiency standards. DOE was also required to consider stand-by power when promulgating appliance efficiency standards and revising test procedures. Other important provisions included DOE matching funds for state rebate and incentive programs for appliances. Lastly, the law included provisions that provide for increased transparency in the Energy Star program when it develops new specifications.

EPACT '05 also included an appliance manufacturer tax credit for the production of super energy efficient clothes washers, dishwashers and refrigerators. The Credit, which will expire at the end of this year, was originally estimated to save almost 8 million metric tons of carbon and 1.2 trillion gallons of water.

In addition, in 2000 AHAM and the efficiency advocates concluded an agreement on minimum standards for clothes washers which were also estimated to result in up to 5 quads (quadrillion Btus) of energy saved and about 6 to 11 trillion gallons of water saved by 2030.

III. 2006/2007 INDUSTRY ADVOCATE NEGOTIATIONS

Mr. Chairman, AHAM believes that the energy savings embodied in EPACT '05 will be significantly exceeded by the agreement that appliance manufacturers and advocacy groups are announcing today on multiple appliances. The agreement seeks to legislate new appliance efficiency standards for several covered products, recommends to DOE and EPA that they adopt new strict Energy Star specifications for these products, and seeks to extend the manufacturers' tax credit for super efficient appliances to more products. Our consensus-based agreement which includes stakeholders from the industry, the Department of Energy, and efficiency organizations also provides for the first time, national water efficiency standards for residential clothes washers and dishwashers.

The agreement being announced today will, through a combination of new legislated appliance efficiency standards, updated Energy Star specifications and tax credits will result in a national energy savings of up to 3.3 quads. The agreement will also, through new water use requirements, result in a savings of 10.8 million acre feet of water, the equivalent of over two and a half years of domestic water use in the United States. And finally, consumers will save up to $14.7 billion in utility payments.

This agreement also calls for new DOE rulemakings for several products including refrigerator/freezers and residential clothes washer efficiency. These new standards, when combined with the provisions of the agreement I just mentioned will result in additional energy savings ranging from 7.5 to 14.6 quads, additional water savings of 35 to 68 million acre feet, the

equivalent of over seventeen years of national domestic water use. Consumer utility savings will range from $37 to 68 billion, depending on the cost justification of various standards options.

This agreement represents a cooperative approach between the industry and advocacy groups that our industry has encouraged for many years. While we fully support the DOE appliance standards program and its rulemaking process, we also look for opportunities to develop consensus with other stakeholders. The DOE appliance standards rulemaking process involves in-depth analyses that measure the potential for future energy savings from a new standard while also considering the impact of new standards on consumers – and manufacturers. These important elements of the rulemaking process are contained in the Process Improvement Rule, which has guided DOE decision-making for many years. AHAM works closely with the Department during these rulemakings, and supports DOE's efforts there.

In some instances, however, it is appropriate, and timely, for the industry to conduct direct negotiations with advocacy groups to determine if there are standards that are mutually acceptable. During these negotiations many of the same DOE analyses are conducted that form the basis for the discussions and the ultimate outcome. In the negotiations that I will be discussing today, DOE provided important analyses which assisted the parties in coming to an agreement.

The agreement, which we hope will be included in committee legislation, establishes first-ever water conservation standards for clothes washers and dishwashers along with a new energy standard for dishwashers. The new clothes washer and dishwasher standards build upon

the already highly efficient products on the marketplace today and requires that manufacturers continue to increase their energy and water efficiency. The legislation also provides for new energy efficiency standards for dehumidifier products, and requires DOE to conduct a new rulemaking to determine future refrigerator standards.

Lastly, and in order to ensure that federal standards keep pace with technological developments, the legislation requires DOE to conduct future rulemakings on dishwashers and clothes washers to determine if new energy and water standards are warranted, and if so, what they should be.

The consensus agreement also includes an extension of the highly successful appliance manufacturers' tax credit. This extension is an improvement and tightening-up of the tax credit enacted by the last Congress which has been applicable in 2006 and 2007. It provides manufacturers with per unit credits for producing more super-efficient appliances than they have produced in the past. The credit only applies to incremental, additional production based on a rolling historic two-year base period.

* * * *

On behalf of the appliance industry, we appreciate the opportunity to testify before your committee and would welcome your questions.

AHAM
association of home appliance manufacturers

1111 19th street, nw ▲ suite 402 ▲ washington, dc 20036
202.872.5955 ▲ fax 202.872.9354 ▲ www.aham.org

Summary of AHAM Testimony Before the Subcommittee on Energy and Air Quality

May 1, 2007

- The home appliance industry's commitment to efficiency is evidenced by the nearly 60% decrease in clothes washer energy consumption, 47% refrigerator energy consumption decrease and the 38% drop in dishwasher energy consumption since 1990.
- While the appliance standards program administered by DOE is far from perfect, it has been very productive, in the case of home appliances, and enormous energy and carbon savings have resulted.
- There are two fundamental strengths of NAECA: the process used to determine if appliance standards are justified and federal preemption of state standards.
- AHAM believes that a federal program of appliance standards is the only way to achieve significant energy savings, while also providing manufacturers with a national marketplace instead of a patchwork of state standards that increases distribution and manufacturing costs.
- AHAM opposes lapsing of federal preemption which would encourage states to adopt separate appliances standards which would balkanize the market, driving up manufacturer and consumer costs.
- AHAM opposes regional appliance standards which also require manufacturers to produce different products for different parts of the country, increasing costs, burdening distribution and limiting consumer choice.
- The states do not have the resources, expertise or needed national perspective to undertake these regulations, and the result is a negative for consumers and energy conservation.
- DOE needs to be authorized and appropriated sufficient funds.
- DOE should revisit and strengthen its Process Improvement Rule.
- DOE should be required to review all covered products at a regular interval.
- Congress should be open to agreements negotiated among stakeholders on appliance efficiency that might expedite policy decisions and break new ground in environmental protection and energy efficiency.
- In 2000, AHAM and the efficiency advocates concluded an agreement on minimum standards for clothes washers which will result in up to 5 quads (quadrillion Btus) of energy saved and about 6 to 11 trillion gallons of water saved by 2030.
- EPACT '05 included an appliance manufacturer tax credit for the production of super energy efficient appliances. It will save almost 8 million metric tons of carbon and 1.2 trillion gallons of water.
- AHAM is today announcing a new agreement with advocates which seeks to legislate new appliance efficiency standards for several covered products, recommends to DOE and EPA that they adopt new strict Energy Star specifications for these products, and seeks to extend the manufacturers' tax credit for super efficient appliances to more products.
- The agreement provides for the first time, national water efficiency standards for residential clothes washers and dishwashers.
- The agreement being announced today will, through a combination of new legislated appliance efficiency standards, updated Energy Star specifications and tax credits will result in massive energy and water savings.