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HOUSE OF REPRESENTATIVES
REPORT
118–431

PROTECTING AMERICA'S DISTRIBUTION TRANSFORMER SUPPLY CHAIN ACT

MARCH 26, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mrs. RODGERS of Washington, from the Committee on Energy and Commerce, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 4167]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 4167) to prohibit the Secretary of Energy from changing energy conservation standards for distribution transformers for a certain period, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 4167, the "Protecting America's Distribution Transformer Supply Chain Act," was introduced by Representative Richard Hudson (R–NC) on June 15, 2023. This legislation would prohibit the Department of Energy (DOE) from imposing new efficiency standards for distribution transformers until five years after the date of enactment and maintain the current standards for distribution transformers that were published in 2013 as remaining in effect for the intervening period.

BACKGROUND AND NEED FOR LEGISLATION

Pursuant to the Energy Policy and Conservation Act of 1975 (EPCA), DOE is authorized to establish minimum energy efficiency standards for consumer appliances and equipment. Since the passage of EPCA, DOE has issued regulations for more than 60 products, representing about 90 percent of home energy use.[1] Some of those products include dishwashers, dryers, washing machines, cooktop stoves, refrigerators, ceiling fans, furnaces, air conditioners, and light bulbs. The procedures DOE utilizes to issue efficiency standards were first formalized by the 1996 Process Rule.

In 2020, DOE finalized a rule to modernize the Process Rule in an effort to increase transparency, accountability, and regulatory certainty for the American people. In its justification for updating the Process Rule, DOE conducted an analysis which found that "over the last three decades, 60 percent of standards were projected to save 0.3 quads or more over 30 years, and those 60 percent of standards accounted for 96 percent of total energy savings. The other 40 percent of standards, projected to save less than 0.3 quads, accounted for just 4 percent of total energy savings."[2]

In December 2021, DOE issued another final rule relating to the Process Rule, removing the recently-added requirement to conduct a comparative economic analysis of economic justification, and removing the threshold for determining when the significant energy savings criterion is met.[3]

On January 11, 2023, DOE issued a proposed rule that, if finalized, would raise the minimum efficiency standards for certain types of distribution transformers manufactured and sold into commerce. DOE has stated this may require switching to a new type of steel for one part of the transformer. Certain electric power trade groups have cited supply chain challenges that may impact the availability of this type of steel and suggested that DOE's proposed standards could negatively impact grid reliability. The Committee finds that DOE's proposed rule would not save a significant amount of energy, and it is not technically feasible or cost-effective.

H.R. 4167, the "Protecting America's Distribution Transformer Supply Chain Act," was introduced by Rep. Hudson (R–NC) on

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[1] U.S. Department of Energy, *Saving Energy & Money with Appliance and Equipment Standards in the U.S.*, (2017), https://www.energy.gov/eere/buildings/articles/appliance-and-equipment-standards-fact-sheet.

[2] https://www.energy.gov/articles/department-energy-issues-final-process-rule-modernizing-procedures-consideration-energy.

[3] 10 C.F.R. Part 40 (2021), https://www.regulations.gov/document/EERE-2021-BT-STD-0003-0075.

June 15, 2023. The legislation would prohibit DOE from imposing new efficiency standards for distribution transformers until 5 years after the date of enactment. Under the legislation, the current standards for distribution transformers that were published by DOE in 2013 would remain in effect in the intervening period of time.

COMMITTEE ACTION

On September 13, 2023, the Subcommittee on Energy, Climate, and Grid Security held a hearing on H.R. 4167. The title of the hearing was "Keeping the Lights On: Enhancing Reliability and Efficiency to Power American Homes." The Subcommittee received testimony from:

- Gene Rodrigues, Assistant Secretary for Electricity, Office of Electricity, U.S. Department of Energy;
- David Ortiz, Director, Office of Electric Reliability, Federal Energy Regulatory Commission;
- Kevin Messner, Executive Vice President and Chief Policy Officer, Association of Home Appliance Manufacturers;
- B. Robert Paulling, President and Chief Executive Officer, Mid-Carolina Electric Cooperative on behalf of the National Rural Electrical Cooperatives Association;
- Ben Lieberman, Senior Fellow, Competitive Enterprise Institute; and,
- Andrew deLaski, Executive Director, Appliance Standards Awareness Project.

On October 24 and 25, 2023, the Subcommittee on Energy, Climate, and Grid Security met in open markup session and forwarded H.R. 4167, without amendment, to the full Committee by a record vote of 17 yeas and 13 nays.

On December 5 and 6, 2023, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 4167, without amendment, favorably reported to the House by a record vote of 24 yeas and 22 nays.

COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during the Committee consideration:

COMMITTEE ON ENERGY AND COMMERCE
118TH CONGRESS
ROLL CALL VOTE # 5

BILL: H.R. 4167, Protecting America's Distribution Transformer Supply Chain Act

AMENDMENT: An amendment, offered by Mr. Sarbanes, No. 1, to condition the Act's 5-year prohibition on the Secretary of Energy from proposing, finalizing, implementing, administering, or enforcing any rule establishing any requirements under the Energy Policy and conservation Act for distribution transformers under the final rule titled "Energy Conservation Program: Energy Conservation Standards for Distribution Transformers" and published in the Federal Register on April 18, 2013 (78 Fed. Reg. 23336) on a determination by the Secretary that such different requirements would result in at least $5,000,000,000 of net benefits.

DISPOSITION: FAILED, by a roll call vote of 22 yeas to 25 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Rodgers		X		Rep. Pallone	X		
Rep. Burgess		X		Rep. Eshoo	X		
Rep. Latta		X		Rep. DeGette	X		
Rep. Guthrie		X		Rep. Schakowsky	X		
Rep. Griffith		X		Rep. Matsui	X		
Rep. Bilirakis		X		Rep. Castor	X		
Rep. Johnson		X		Rep. Sarbanes	X		
Rep. Bucshon				Rep. Tonko	X		
Rep. Hudson		X		Rep. Clarke	X		
Rep. Walberg		X		Rep. Cárdenas	X		
Rep. Carter		X		Rep. Ruiz	X		
Rep. Duncan		X		Rep. Peters	X		
Rep. Palmer		X		Rep. Dingell	X		
Rep. Dunn				Rep. Veasey	X		
Rep. Curtis		X		Rep. Kuster	X		
Rep. Lesko		X		Rep. Kelly	X		
Rep. Pence		X		Rep. Barragán	X		
Rep. Crenshaw		X		Rep. Blunt Rochester	X		
Rep. Joyce		X		Rep. Soto	X		
Rep. Armstrong				Rep. Craig	X		
Rep. Weber		X		Rep. Schrier	X		
Rep. Allen		X		Rep. Trahan	X		
Rep. Balderson		X		Rep. Fletcher			
Rep. Fulcher		X					
Rep. Pfluger		X					
Rep. Harshbarger		X					
Rep. Miller-Meeks		X					
Rep. Cammack		X					
Rep. Obernolte							

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COMMITTEE ON ENERGY AND COMMERCE
118TH CONGRESS
ROLL CALL VOTE # 6

BILL: H.R. 4167, Protecting America's Distribution Transformer Supply Chain Act

AMENDMENT: A motion by Chair Rodgers to order H.R. 4167 favorably reported to the House, without amendment (Final Passage).

DISPOSITION: AGREED TO, by a roll call vote of 24 yeas to 22 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Rodgers	X			Rep. Pallone		X	
Rep. Burgess	X			Rep. Eshoo		X	
Rep. Latta	X			Rep. DeGette		X	
Rep. Guthrie	X			Rep. Schakowsky		X	
Rep. Griffith	X			Rep. Matsui		X	
Rep. Bilirakis	X			Rep. Castor		X	
Rep. Johnson	X			Rep. Sarbanes		X	
Rep. Bucshon				Rep. Tonko		X	
Rep. Hudson	X			Rep. Clarke		X	
Rep. Walberg	X			Rep. Cárdenas		X	
Rep. Carter	X			Rep. Ruiz		X	
Rep. Duncan	X			Rep. Peters		X	
Rep. Palmer	X			Rep. Dingell		X	
Rep. Dunn				Rep. Veasey		X	
Rep. Curtis				Rep. Kuster		X	
Rep. Lesko	X			Rep. Kelly		X	
Rep. Pence	X			Rep. Barragán		X	
Rep. Crenshaw	X			Rep. Blunt Rochester		X	
Rep. Joyce	X			Rep. Soto		X	
Rep. Armstrong				Rep. Craig		X	
Rep. Weber	X			Rep. Schrier		X	
Rep. Allen	X			Rep. Trahan		X	
Rep. Balderson	X			Rep. Fletcher			
Rep. Fulcher	X						
Rep. Pfluger	X						
Rep. Harshbarger	X						
Rep. Miller-Meeks	X						
Rep. Cammack	X						
Rep. Obernolte							

12/05/2023

OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee held hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 4167 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

H.R. 4167, Protecting America's Distribution Transformer Supply Chain Act
As ordered reported by the House Committee on Energy and Commerce on December 5, 2023

By Fiscal Year, Millions of Dollars	2024	2024-2028	2024-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	0	0

Increases *net direct spending* in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	No
		Mandate Effects	
Increases *on-budget deficits* in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

H.R. 4167 would prohibit the Department of Energy (DOE) from proposing or implementing any rule that, within five years of enactment, amends energy conservation standards for distribution transformers as specified in a final rule that took effect in June 2013.[1] (A distribution transformer is a device that provides the final voltage transformation in the electric power system.) Under current law, the Energy Policy and Conservation Act, as amended, authorizes DOE to regulate energy efficiency standards for various appliances and equipment, including distribution transformers.

CBO is unaware of any proposed rules related to distribution transformers that would affect the federal budget. In addition, CBO does not expect that the bill's provisions would affect federal spending on programs related to distribution transformers, such as the Energy Efficient Transformer Rebates Program. On that basis, CBO estimates that implementing H.R. 4167 would not affect the federal budget.

[1] Department of Energy, "Energy Conservation Program: Energy Conservation Standards for Distribution Transformers," 78 *Fed. Reg.* 23336 (April 18, 2013), http://tinyurl.com/myup9abc.

The CBO staff contact for this estimate is Aaron Krupkin. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to ensure energy reliability by maintaining the current efficiency standards and prohibiting the DOE from imposing new efficiency standards for distribution transformers until five years after the date of enactment.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 4167 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

RELATED COMMITTEE AND SUBCOMMITTEE HEARINGS

Pursuant to clause 3(c)(6) of rule XIII, the following related hearings were used to develop or consider H.R. 4167:

- On June 16, 2023, the Subcommittee on Energy, Climate, and Grid Security held a hearing. The title of the hearing was "Enhancing America's Grid Security and Resilience." The Subcommittee received testimony from:
  - William Ray, Director and Deputy Homeland Security Advisor, Division of Emergency Management, North Carolina Department of Public Safety;
  - Mark Aysta, Managing Director, Enterprise Security, Duke Energy;
  - Tim Ponseti, Vice President, Operations, SERC Reliability Corporation; and,
  - Jordan Kern, Assistant Professor, North Carolina State University, Department of Industrial and Systems Engineering.
- On September 13, 2023, the Subcommittee on Energy, Climate, and Grid Security held a hearing on H.R. 4167. The title of the hearing was "Keeping the Lights On: Enhancing Reliability and Efficiency to Power American Homes." The Subcommittee received testimony from:
  - Gene Rodrigues, Assistant Secretary for Electricity, Office of Electricity, U.S. Department of Energy;
  - David Ortiz, Director, Office of Electric Reliability, Federal Energy Regulatory Commission;
  - Kevin Messner, Executive Vice President and Chief Policy Officer, Association of Home Appliance Manufacturers;

- B. Robert Paulling, President and Chief Executive Officer, Mid-Carolina Electric Cooperative on behalf of the National Rural Electrical Cooperatives Association;
- Ben Lieberman, Senior Fellow, Competitive Enterprise Institute; and,
- Andrew deLaski, Executive Director, Appliance Standards Awareness Project.

- On September 28, 2023, the Subcommittee on Energy, Climate, and Grid Security held a hearing. The title of the hearing was "Powering America's Economy, Security, and Our Way of Life: Examining the State of Grid Reliability." The Subcommittee received testimony from:
  - Gordon van Welie, President and Chief Executive Officer, ISO New England;
  - Paul Suskie, Executive Vice President of Regulatory Policy and General Counsel, Southwest Power Pool;
  - Richard J. Dewey, President and Chief Executive Officer, New York ISO;
  - Todd Ramey, Senior Vice President, Markets and Digital Strategy, Midcontinent ISO;
  - Woody Rickerson, Senior Vice President and Chief Operating Officer, ERCOT;
  - Neil Millar, Vice President for Infrastructure and Operations Planning, California ISO; and,
  - Frederick S. Bresler III, Senior Vice President of Market Services, PJM Interconnection, LLC.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 4167 contains no earmarks, limited tax benefits, or limited tariff benefits.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 provides that the Act may be cited as the "Protecting America's Distribution Transformer Supply Chain Act."

Section 2. Energy Conservation Standards for Distribution Transformers

Section 2 would prohibit the DOE from imposing new efficiency standards for distribution transformers until five years after the date of enactment. Section 2 also would maintain the current standards for distribution transformers, which were published in 2013 as remaining in effect for the intervening period.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not amend any existing Federal statute.

MINORITY VIEWS

H.R. 4167, the Protecting America's Distribution Transformer Supply Chain Act H.R. 4167, the "Protecting America's Distribution Transformer Supply Chain Act," would prohibit the Department of Energy (DOE) from proposing or finalizing energy efficiency standards for distribution transformers for five years. Committee Democrats strongly oppose this bill, as it would prevent DOE from finalizing a standard that would save Americans $15 billion.[1]

The Energy Policy and Conservation Act (EPCA) clearly requires DOE to re-examine its efficiency standards across a wide range of covered products no less than once every six years.[2] Amendments made by the Energy Policy Act of 1992 made distribution transformers subject to EPCA's efficiency standard requirements,[3] and DOE last finalized energy efficiency standards for distribution transformers in April 2013.[4]

During the Trump Administration, DOE ignored its statutory obligation under EPCA to either determine that efficiency standards for a given product did not need to be amended, or to promulgate new standards, triggering a lawsuit from environmental and consumer groups.[5] DOE settled the lawsuit in September 2022, and agreed to new deadlines for a suite of covered products, including distribution transformers, to either publish a final determination that a new efficiency standard for a product would not be justified or publish a final rule containing a new efficiency standard for a covered product. In the settlement, DOE agreed to take final action on a rule or determination for distribution transformers by June 30, 2024, over a decade after the previous standards were finalized, and over five years after the deadline set by EPCA.[6] On January 11, 2023, DOE released a notice of proposed rulemaking for distribution transformer efficiency standards in the Federal Register.[7]

EPCA requires efficiency standards to be "technologically feasible and economically justified."[8] DOE found that its proposed rule for distribution transformer standards satisfied those criteria and would generate approximately $15 billion in savings.[9] However, the majority's report claims that "DOE's proposed rule would not save a significant amount of energy, and it is not technically feasible or

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[1] Department of Energy, *DOE Proposes New Efficiency Standards for Distribution Transformers* (Dec. 28, 2022) (press release).
[2] 42 U.S.C. § 6295.
[3] Energy Policy Act of 1992 § 124(a).
[4] Department of Energy, *Energy Conservation Standards for Distribution Transformers*, 78 Fed. Reg. 23336 (June 17, 2013) (final rule).
[5] National Resources Defense Council, *Groups Sue Energy Dept. for Failure to Update 25 Overdue Efficiency Standards* (Nov. 9, 2020) (press release).
[6] National Resources Defense Council, *DOE Settles Suit About Overdue Efficiency Updates* (Sept. 20, 2022) (press release).
[7] Department of Energy, *Energy Conservation Standards for Distribution Transformers*, 88 Fed. Reg. 1722 (Jan. 11, 2023) (proposed rule).
[8] *See* note 2.
[9] *See* note 1.

cost-effective." We are unaware of any data or analysis the committee received supporting this claim, and it directly contradicts testimony the Subcommittee on Energy, Climate, and Grid Security received in a September 13, 2023 hearing from DOE Assistant Secretary Gene Rodrigues, who testified that the proposed standards would reduce distribution transformer losses by over 20 percent while saving American households up to $1.5 billion per year.[10] To address Republican concerns, Rep. John Sarbanes offered an amendment to H.R. 4167 during the full Committee markup of the bill that would have waived the applicability of the ban on new efficiency standards if the standards resulted in at least $5 billion in net benefits—ensuring that any standard would be more than economically justified.[11] Republicans voted the amendment down on a party-line vote.

Rather than this effort that would cause American households to pay more, the Committee Republicans should be focused on increasing the supply of distribution transformers. Assistant Secretary Rodrigues testified that the bill would not increase the supply of distribution transformers and would do nothing to alleviate the existing supply chain issues. He did, however, testify about work that DOE is currently undertaking to relieve constraints in the distribution transformer supply chain, and that if granted additional resources and authorities, DOE would be able to do more.[12] In response to that testimony, Rep. Schrier offered an amendment to H.R. 4167 at Subcommittee markup that would have authorized DOE to establish "a program to provide financial and technical assistance to domestic manufacturers to increase domestic production of distribution transformers, grid components, and electrical steel." [13] This authorization would have partnered with the Biden Administration's invocation of the Defense Production Act for distribution transformers,[14] allowing the Administration to ease the sector's supply chain issues by manufacturing more transformers. Republicans voted the amendment down on a party-line vote.

For the reasons stated above, we dissent from the views contained in the Committee's report.

FRANK PALLONE, Jr.,
Ranking Member.

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[10] House Committee on Energy and Commerce, Testimony of Gene Rodrigues, Assistant Secretary for Electricity, U.S. Department of Energy, *Hearing on Keeping the Lights on: Enhancing Reliability and Efficiency to Power American Homes*, 118th Cong. (Sept. 13, 2023).

[11] Amendment to H.R. 4167, 02XML, offered by Rep. Sarbanes, Dec. 12, 2023, Full Committee Markup.

[12] *See* note 10.

[13] Amendment to H.R. 4167, SCN—03, offered by Rep. Schrier, Oct. 24, 2023, Subcommittee on Energy, Climate, and Grid Security Markup.

[14] The White House, *Memorandum on Presidential Determination Pursuant to Section 303 of the Defense Production Act of 1950, as Amended, on Transformers and Electric Power Grid Components* (June 6, 2022) (press release).