



Ann Bailey
Director
Energy Star Labeling Branch
US EPA

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Mrs. Bailey,

Thank you for the opportunity to provide comment on this important point. The Marley Company has the following concerns with the stated approach to discontinue Energy Star programs for fuel-fired residential furnaces and boilers and fuel-fired commercial boilers. Firstly, as the majority of typical product technologies mature, the transition of the market penetration towards higher efficiencies slows based upon market demand. This must not be confused with a market failure. None of the markets identified in the sunseting policies are experiencing market failures. Rather this is a fundamental indicator of a mature market characteristic. The Marley Company is concerned that EPA's actions are fair, as ending the residential furnace and boiler and commercial boiler Energy Star programs due to an administration's policy change while maintaining other programs in similar mature markets results in bias against some legal products.

If the Energy Star programs for residential furnaces and boilers and the commercial boiler programs are ended due to policy, then other product categories with high market penetration metrics should also be subject to sunset. According to Energy Star's 2021 shipment report, the residential furnace program has 41% market penetration and the commercial boiler has 18% market penetration while Blu-Ray Players have 99%, dehumidifiers 94%, and dishwashers 93% market penetration. There are 19 product categories with 50% or more market penetration and another seven with more than 41% penetration. If the Agency chooses to end these three programs, they must also end 26 of the 78 other Energy Star programs, or one-third of the Energy Star programs.

Clearly Congress recently showed support of these programs as blended fuels used in these products receive Inflation Reduction Act funding. Should the Agency implement this path, the Agency will fall afoul of preserving the integrity of the Energy Star Program as directed in EPCA¹. Similarly, pursuing this path runs afoul of other provisions of EPCA as congress, in the same law that created the Energy Star Program, expressed their intent for increases in the efficiency of covered furnace products to prohibit shifting from gas to electric heating².

Sincerely,

Phillip W. Stephens

Phillip W. Stephens
Director, Product Compliance
The Marley Company, LLC

¹ 42 USC §6294a (c)(3)

² 42 USC §6295 (f)(1)(iii)