

ONE HUNDRED FOURTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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March 24, 2016

The Honorable Ernest J. Moniz
Secretary
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585

Dear Secretary Moniz:

Thank you for appearing before the Subcommittee on Energy and Power on Wednesday, March 2, 2016, to testify at the hearing entitled "The Fiscal Year 2017 DOE Budget."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on April 7, 2016. Your responses should be mailed to Will Batson, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed in Word format to Will.Batson@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Ed Whitfield
Chairman
Subcommittee on Energy and Power

cc: The Honorable Bobby Rush, Ranking Member, Subcommittee on Energy and Power

Attachment

Additional Questions for the Record

The Honorable Ed Whitfield

1. What percentage of the \$2.9 billion EERE budget is intended to facilitate the President's environmental agenda, Climate Action Plan, and Paris commitments?
2. DOE request's \$360 million for Fossil Energy R&D and add in another \$240 million in de-obligated carry over from prior years. This fossil energy R&D for 2017, therefore, represents only about 10% of DOE's applied energy research. More than 75% of DOE's applied energy R&D—about \$4.2 billion—you propose to go to DOE's renewable energy and efficiency research.
 - A. Why is the Department of Energy proposing to spend only 10% of R&D on fossil fuel energy, when this source accounts for about 90% of our nation's delivered energy?
 - B. When we look at where the greatest need is for improving technologies and efficiencies, can you explain why we are not prioritizing our research on the source of energy that dominates our economy—and the world economy?
3. Does DOE track how much money the agency is spending on "clean energy"?
 - A. How much DOE spending on "clean energy" is proposed in the FY 2017 budget?
 - B. How much has DOE spent on "clean energy" since 2009 when the President took office?
4. One of the stated priorities in your FY 2017 budget request is to "support ongoing implementation of the President's Climate Action Plan."
 - A. What specific actions is DOE undertaking to further the President's climate goals?
 - B. If you had to estimate, what percentage of DOE's \$32.5 billion budget request will go toward furthering the President's climate goals?
5. At the Paris Climate Conference, President Obama announced that the United States would participate in a new initiative called "Mission Innovation," a joint plan by 20 countries to "dramatically accelerate public and private global clean energy innovation." For "Mission Innovation," President Obama pledged to seek to double R&D spending by the United States for "clean energy" from the current \$5 billion to \$10 billion over the next 5 years.
 - A. When did negotiations regarding "Mission Innovation" begin and was DOE involved in those negotiations?
 - B. Prior to the President's announcement, was any documentation developed at DOE about "Mission Innovation?" Please provide any such information including public and non-public.

- C. Prior to making this \$5 billion “Mission Innovation” commitment, what consultations did Administration officials have with Congress? With whom and when did those consultations take place?
6. Prior to the President’s “Mission Innovation” announcement, did DOE prepare any documentation identifying what the additional \$5 billion annually would be spent on?
- A. If yes, please provide us with that documentation.
7. Does the U.S. government track how many “clean energy” programs exist across the government?
- A. How many programs are there across DOE? Please provide us with that information.
- B. How many programs are there across the government? Please provide us with that information.
8. I understand the “Mission Innovation” investments are intended to be leveraged by private capital. Specifically, the budget mentions a group known as the Breakthrough Energy Coalition, a global group of private investors that intend to provide investments in promising early-stage clean energy technologies.
- A. What exactly is the relationship between “Mission Innovation” and the Breakthrough Coalition?
- B. What measures does DOE intend to put in place to ensure that Breakthrough Innovation investors do not get preferential treatment or access to promising technologies coming out of the DOE research pipeline?
9. Close to 50% of the Nation’s natural gas transmission and gathering pipelines were constructed in the 1950’s, presenting both a safety and logistical challenge today. The QER suggests that natural gas interstate pipeline investment will range between \$2.6 and \$3.5 billion per year over the next 15 year and identifies “a new urgency to improve siting and permitting.”
- A. What areas of the federal permitting process need the most improvement?
- B. Why does it take longer to permit midstream energy infrastructure, such as pipelines, than generation and production sources?
- C. What steps is DOE taking to implement its QER recommendations related to natural gas infrastructure?
10. To its credit, the QER not only shines a spotlight on the depth of our energy integration north and south of the border – it also proposes some options for further bolstering those relationships.

- A. How will the Administration apply the QER's positive view on the benefits of North American energy integration to Administration actions, such as approval of cross-border infrastructure, namely transmission lines and liquid and gas lines?
 - B. The cross-border energy infrastructure language in the committee's energy bill – H.R. 8 – would address some of the unnecessary delays in the permitting of cross-border pipelines and transmission lines. What recommendation does DOE have to improve the cross-border permitting process?
11. The second installment of the QER will conduct a comprehensive review of the nation's electricity system, from generation to end use, including a more comprehensive look at electricity transmission, storage, and distribution infrastructure.
- A. What was the agency's motivation for focusing solely on the electricity sector for the next installment?
 - B. What is the schedule for public participation?
 - C. When is the expected release date of the final draft?
 - D. How much has DOE budgeted to spend on the development and issuance of the second installment?
12. The original ARPA-E program has existed for a few years now.
- A. Part of the mission of the program is to “accelerate transformational energy technologies from concept to market.” Has anything come to market yet since the program's inception 6 years ago? For example, has there been any wide-scale deployment of a commercialized product that has resulted from the ARPA-E program? Please provide a list of such products and companies.
 - B. What metrics does DOE use to evaluate the success of its ARPA-E projects?
 - C. When an ARPA-E funded project isn't resulting in progress or benefits, what are DOE's protocols for ending the project? How often does this happen?
13. DOE is proposing a new initiative called the “Regional Clean Energy Innovation Partnerships.” The intent is to “support regionally relevant technology neutral clean energy R&D needs and opportunities to support accelerated clean energy technology commercialization, economic development, and manufacturing.”
- A. How is this different from existing federal programs, such as DOE's State Energy Program, Clean Energy Hubs, or the Energy Technology Innovation Accelerators, to name a few?
 - B. How much of a say will each region actually have in which projects or technologies they get to pursue? Will they need DOE approval to pursue a particular project?

- C. Is anything preventing states and regions from doing this themselves, without the need for yet another federal program backed by federal dollars?
14. DOE already has in existence or plans to establish several Hubs, Institutes, and Initiatives. A few examples: a Clean Energy Manufacturing Initiative; Energy Technology Innovation Accelerators funding; Next-Generation Clean Energy Technology Pathways; a Critical Materials Institute; Energy-Water Desalination Hub; a Small Business Partnership Program; and Regional Energy Innovation Partnerships.
- A. What metrics does DOE use to evaluate the success of these types of programs?
- B. When a program isn't resulting in progress or benefits, what are DOE's protocols for ending the program? How often does this happen?
- C. Please provide to the committee a list of all of DOE's existing and proposed Hubs, Institutes, and Initiatives, including funds allocated to each or proposed for each.
15. What is the Department's strategy for addressing potential cybersecurity challenges presented by existing and future grid and energy infrastructure technologies?
- A. What programs or research and development efforts does the Department intend to pursue to understand potential cybersecurity vulnerabilities created by networked or digitally connected energy technologies?
16. As you're aware, this committee was successful in getting legislation signed into law last year that helps facilitate the establishment of a Strategic Transformer Reserve. What steps has DOE taken to implement this legislation? Your budget requests \$15 million for "transformer resilience and advanced components." Is this money intended to go toward implementing our transformer reserve legislation?
17. What steps is DOE taking to better integrate advanced energy technologies, such as energy storage and micro-grids, into the electric grid? What about utilizing "big data" and energy information technologies?
18. The budget includes a request of \$15 million to establish a new State Distribution-Level Reform Program. The request also states that DOE plans to develop the specifications for an "open source distribution operating system" and "advanced distribution grids."
- A. What assurances can you give me that DOE's new State Distribution-Level Reform Program and other distribution-level activities aren't yet another federal intrusion into state jurisdiction?
19. The budget mentions the need to better coordinate federal transmission permits, including streamlining permits, special use authorizations, and other approvals required under Federal law to site electric transmission facilities. What specific steps is DOE taking to improve federal coordination to site transmission?
20. DOE has made some progress in completing work on LNG export applications, and just a couple weeks ago the first tanker set sail from the Gulf Coast. However, there are at least 30

applications that are still under your review and some of them have been sitting on your desk for years.

- A. I understand that DOE has taken the position that FERC should complete their environmental review of the proposed facility, but aren't there aspects of an application that you could begin work on immediately?
 - B. What are the components of the "public interest" review? Over time, has DOE modified these criteria or have you used the same formula from the start?
21. According to the President's budget proposal, the anticipated budget for DOE's fossil energy R&D extending out ten years will average just about \$394 million per year—down from roughly \$600 million this year.
- A. This would suggest that DOE is turning away from fossil energy R&D as a source of innovation, why is that?
 - B. Why is fossil energy R&D only a small percentage of your focus if it is the dominant energy source for the world?
 - C. How much is DOE working with China and India on cleaner fossil energy technologies?
22. DOE is proposing to comingle funding traditionally appropriated for coal based technology development with development of natural gas technologies. What is the agency's rationale for combining the coal and natural gas funding?
23. How many carbon capture and storage (CCS) commercial scale power projects are up and running today in the U.S.?
24. According to a number of news reports out of Saskatchewan, Canada, the SaskPower Boundary Dam project in the first year of operation has operated at less than half its design rate and actually required extensive modification this past September and October.
- A. How much time was DOE provided for and to what extent was DOE involved in interagency review of EPA's final version of the NSPS regulation?
 - B. When did DOE first become aware that (a) the first year performance of the Boundary Dam CCS demonstration unit was at less than half the design carbon capture rate and (b) that major CCS equipment modifications were required in September and October 2015.
 - C. Regarding its new source performance standards for new coal power plants, EPA states: "For the final standard, the EPA made particular use of the most recent NETL cost estimates for post-combustion CCS, which reflect up-to-date vendor quotes and incorporate the post-combustion capture technology—the Shell Cansolv amine-based process—that is being utilized at the Boundary Dam Unit #3 facility." However, the cited DOE publication specifically states that "The CO2 recovery process... is based on data given by Shell Cansolv in 2012." Given the 3 year lapse and the steep technology learning curve experienced for Cansolv technology, do you believe EPA represents an adequate and up-to-date view of CCS costs?

- D. What is DOE doing now to update its cost estimates for CCS, based on Boundary Dam and Kemper, and any other demonstration projects for CCS?
25. In 2012 Congress passed the American Medical Isotope Production Act of 2012. In testimony before this Committee in 2009 as that legislation moved through our committee, the Department of Energy's representative projected domestic production facilities that DOE was funding could come online in 2013. To date, however, none of the projects DOE was funding have come online and a number have been canceled.
- A. What is the status of development of domestic production facilities?
- B. Please provide an update on the status of these development efforts and what barriers DOE sees to developing a competitive domestic supply of medical isotopes by 2020?
26. What is the difference between the SPR's "design" distribution capacity and the "actual" distribution capacity? Is the SPR underperforming in your opinion? If so, what are the major issues?
27. Congress has directed you to drawdown and sell some of the oil from the Reserve to clear the extensive maintenance backlog and modernize the infrastructure. The volume of oil to be sold each year is about the same amount you would use to test the SPR's drawdown and distribution capabilities.
- A. Is the SPR ready today to perform these drawdowns? Or will some front-end investment be required to get the SPR in better shape?
28. Last year the President signed H.R. 22, the FAST Act (also known as the highway bill) which contained a section that requires you to collaborate with the State Department to 1) establish and define U.S. energy security goals; and 2) identify uniform and transparent procedures to evaluate the energy security impacts of federal decision-making.
- A. What's the status of this review? Will you complete this review by the legislatively mandated deadline at the end of this year?
- B. How would this review be useful to the Department of Energy? Would this type of information bring more transparency and consistency to LNG export public interest reviews?
29. The U.S., Mexico, and Canada recently launched a framework for sharing North American energy information.
- A. What types of energy information will be shared through this new framework?
- B. Why is it important to improve energy information sharing between the U.S., Canada, and Mexico?
- C. Will this information help to identify cross-border energy infrastructure needs? How so?

- D. What benefits might result from a better integrated North American energy system?
30. The DOE budget requests \$48 million for appliance and equipment standards activities. Since 2009, DOE has issued 40 new or updated appliance standards covering more than 45 products. The DOE budget request states that the agency plans to issue 14 additional final energy efficiency standards as part of the Administration's goal to "reduce carbon pollution."
- A. The original intent of the Energy Policy and Conservation Act with respect to efficiency standards was to reduce kilowatt-hours, not to reduce emissions. Why the shift from energy savings to emissions reductions?
31. DOE's legislative authority to set appliance standards is now many decades old, and some appliances have now been subject to three, four, or even five rounds of successively tighter standards. Many of these new standards achieve diminishing marginal returns but impose considerable costs. Is it time for DOE to consider some rational stopping point beyond which it ceases to re-regulate an appliance?
32. The regulatory process for establishing DOE efficiency standards is overly burdensome to manufacturers. Many manufacturers have told us that DOE should have a final test procedure in place before it promulgates a new standard but often does not, and that DOE's analysis justifying its standards should be available for independent review but frequently is not. This and other process reforms were included in our energy bill, H.R. 8. What recommendations does DOE have to improve this process?
33. Appliance standards can often have unintended consequences. On several recent occasions we have been forced to legislate exemptions or technical fixes to DOE's standards – walk-in refrigerators, deli-style display cases, grid-enabled water heaters, and LEDs and ceiling fans to name a few. Wouldn't you agree that this piecemeal approach is further evidence that the standard-setting process needs an overhaul?
34. While DOE sets standards for air conditioners and refrigerators, EPA is separately banning some of the most efficient refrigerants, and is doing so under deadlines that make it harder to comply with DOE's standards. In the past, there has been little if any coordination between the two agencies, despite Obama administration executive orders requiring agencies to minimize the cumulative regulatory burden and harmonize multiple regulations affecting the same industry. Will you commit DOE to coordinating better with EPA and other agencies on appliance standards rulemakings?
35. Unlike appliances, DOE does not have authority to issue efficiency regulations for buildings. DOE can only provide technical assistance. However, several stakeholders are concerned that DOE is pressuring states to set their building codes in accordance with the agency's preferences. Do you agree that DOE has no authority to either directly or indirectly set efficiency standards for buildings?
36. Since you became Secretary, you have pursued a number of organizational and management reforms to improve the operations of the Department.
- A. What is the current status of these efforts and what additional steps do you intend to pursue in the coming years?

- B. In a perfect world, what is your vision for the Department of Energy in the 21st century? What reforms or organizational changes are necessary to modernize DOE and ensure its continued success in the 21st century?
- C. Will you commit to working with the Committee to ensure that DOE is a modern, resilient and forward-thinking 21st century agency?
37. In Fiscal Year 2016, DOE's Equipment and Buildings Standards program was appropriated \$57.5 million (page 237). So far, with the fiscal year not even halfway done, DOE has issued multiple appliance efficiency standards in FY 2016 with total costs of *\$17.6 billion*, meaning every dollar appropriated resulted in *over \$300 in regulatory burdens* for families, small businesses, and employers by raising the prices of appliances.
- A. How does the Department plan to minimize the regulatory burden of its standards in FY 2017?
38. Academic research by the George Washington University Regulatory Studies Center indicates that elderly and low-income Americans bear the biggest burdens from the Department's appliance efficiency standards, while high-income Americans gain the biggest benefit. This essentially makes DOE's appliance standard program a wealth transfer from low-income Americans to wealthy Americans.
- A. What actions is the Department taking to ensure that its rules do not continue to have a disparate impact on elderly and poor Americans?
39. DOE is planning on promulgating 25 final energy efficiency rules this year, according to information in the Unified Agenda. One of these rules alone has total costs of almost *\$15 billion*.
- A. How many of these rules does DOE plan to finalize after the election?
- B. Is the Department on track to get these rules to the Office of Information and Regulatory Affairs for public review in time before the election in November?
- C. Will the public have the opportunity to submit comment on these rules, or will they be rushed to the Federal Register after the election without public participation?
40. In January, the Department published a direct final rule amending the Department's existing energy efficiency standards for commercial heating and cooling equipment, with a total cost of almost \$15 billion.
- A. What is the Department's rationale for issuing such a massive final rule without first seeking public comment?
- B. In 2011, DOE received 45 adverse comments on its direct final rule establishing energy efficiency standards for air conditioners and heat pumps, and the Department still went forward with the rule. How can we have assurances that the Department will not continue

to disregard adverse public comments on its billion-dollar direct final rules going forward?

41. DOE is statutorily required by the EPCA to consider “the impact of any lessening of competition... that is likely to result from the imposition of the standard” before issuing new appliance standards. The Department of Justice (DOJ) has statutory authority to review DOE’s appliance standards to see whether they impede competition; however, DOE continues to ignore DOJ’s analysis, which puts competition on the line and threatens small businesses and startups in violation of the EPCA.

For example, when it initially reviewed DOE’s 2009 Lamps Rule, DOJ found that the standards would have anti-competitive impacts on industry. However, DOE promulgated the standards despite DOJ’s warning that the standards could adversely affect competition. DOE even went on to finalize a rule that *increased* the stringency of the standards just five years after issuing its 2009 Lamps Rule.

A. What actions is the Department taking to address the effects of appliance efficiency standards on competition? How is the Department verifying that its standards do not negatively affect competition?

42. DOE is required by statute to review its efficiency rules at regular intervals to determine whether stricter standards are feasible. However, the Department doesn’t actually review the costs and benefits of its previous standards, only whether there is room to tighten efficiency standards. On more than one occasion, DOE’s reviews have determined that it’s necessary to update its standards very shortly after they are implemented, which doesn’t allow sufficient time for a retrospective review of the standards’ effectiveness or how the public is affected. This does not allow the Department to learn from implementation of past standards before issuing new rules, and it overwhelms industry by continually moving the goalpost.

A. How does DOE plan to actually review the effectiveness, costs, and benefits of its rules going forward?

B. How does the Department plan to measure the costs of implementation on families, small businesses, and employers?

43. There is a certain standard that must be met to guarantee emergency operations perform during an actual emergency. Nuclear emergencies don’t happen every day, but when they do, such as the Fukushima crisis, all facets of response must perform flawlessly. As we consider the Department’s budget proposal, particularly in the emergency operations, counterterrorism and nonproliferation area, we need to know that the money spent today meets the standards we expect from these critical operations if something goes wrong.

Currently, the functions encapsulated through integrated mission support for emergency operations, field deployment of response assets, integration of Federal teams into local command structures, radiation modeling and data capture, delivery, and product analysis report to you and the White House to make timely, informed decisions during a radiological emergency.

- A. Will you please provide an update on the status of your emergency operations program and how this fits into the Department's mission?
 - B. Will you assure us that the Department will consider the need for continuity of these programs if DOE determines to revise the current contract?
44. In 2015, DOE's H Canyon facility at the Savannah River Site experienced multiple safety events, which resulted in a safety pause.
- A. Please briefly explain the two criticality events at the H Canyon facility.
 - B. What was the length of time that H Canyon was placed into a safety pause as a result of these two combined events, effectively shutting down the facility?
 - C. What is the cost of these events and the related lack of continued operations of H Canyon at the Savannah River Site?
 - D. After the events and the recent Defense Nuclear Facilities Safety Board concerns related to H Canyon, how will this facility be DOE's solution to plutonium disposition as a consequence of the proposal to halt the MOX project at the Savannah River Site?
 - E. What is the current status of H Canyon? Has DOE identified any potential issues relating to the structural stability of the facility?
 - F. Has the Department estimated necessary costs to maintain H Canyon in a state of safe operational readiness for the next 20 years? If so, please provide this estimate.

The Honorable Bill Flores

1. While DOE participation in implementation of the National Ocean Policy is not referenced anywhere in the Administration's FY 2017 budget documents, pursuant to the July 2010 National Ocean Policy Executive Order, DOE serves on the National Ocean Council, and DOE officials have been participating in the policy's marine planning initiative in regions including the Northeast, Mid-Atlantic, and Gulf of Mexico. A NOAA document released in 2013 also listed DOE as a member of a "Coastal and Marine Spatial Planning Regional Team."

Likened by the Interior Dept. to a "national zoning plan," "coastal and marine spatial planning" (otherwise known as "marine planning") is a central feature of the National Ocean Policy, pursuant to the July 2010 Executive Order 13547. Under the initiative, new "regional planning bodies" are tasked with creating marine plans for review and approval by the new National Ocean Council.

Even in regions of the U.S. where all states decide not to participate on a regional planning body to carry out the policy's marine planning initiative, federal agencies nonetheless are directed to "identify and address priority science, information, and ocean management issues associated with marine planning as described in the Executive Order."

Furthermore, language adopted by the July 2010 National Ocean Policy Executive Order stated that the policy’s marine planning effort will require “significant initial investment of both human and financial resources,” and the National Ocean Council previously noted that federal agencies had been asked to provide information about how “existing resources [can] be repurposed for greater efficiency and effectiveness” in furtherance of the National Ocean Policy.

- A. Please describe in detail any DOE resources and personnel that have been or will be directed toward activities in support of the National Ocean Policy. In doing so, please provide a citation(s) to the FY 2017 budget request line item(s) that would be used to support continued participation in National Ocean Policy activities.
 - B. Please describe in detail DOE’s planned and completed activities with regard to National Ocean Policy implementation.
2. While the National Ocean Council has stated that the National Policy “does not establish any new regulations or restrict any ocean uses or activities,” recommendations adopted by the National Ocean Policy Executive Order state that effective implementation will require “clear and easily understood requirements and regulations, where appropriate, that include enforcement as a critical component.”

As to marine plans developed under the policy, federal agencies are “expected to formally incorporate relevant components...into their ongoing operations or activities consistent with existing law,” and the Executive Order requires federal entities to implement the National Ocean Policy to the maximum extent. National Ocean Policy actions thus serve as precursors to regulatory activity.

- A. Please describe in detail how DOE intends to support implementation of National Ocean Policy activities. In doing so, please specify which such activities or types of activities might necessitate requirements or regulations for implementation.
 - B. What if any commitment can you make that DOE will not participate in any actions that could have a regulatory impact pursuant to the National Ocean Policy?
3. The National Ocean Policy foundational documents and subsequent National Ocean Council guidance and Regional Planning Body charters make clear that Regional Planning Body federal member approval of final coastal and marine spatial plans will commit the respective entity to aligning all future actions in accordance with the plan(s), including through regulations where necessary.
- A. Please fully describe and explain your views and understanding of the power of a DOE signature on a marine plan in terms of impacts on future DOE decision-making and regulatory activities.
 - B. Do you agree that DOE representatives serving on Regional Planning Bodies charged with developing marine plans under the National Ocean Policy have the power to commit DOE to indefinite compliance with a marine plan by virtue of affixing their signature to the plan?

- C. In reviewing draft marine plans and determining whether to sign the document, what is the extent to which federal Regional Planning Body representatives representing DOE will be required to seek review and approval from senior DOE officials and the Office of Management and Budget, and which if any specific officials would be involved in any such review/approval process?
4. On February 12, 2016, the National Ocean Council announced the public release of new Guidance on Marine Plans and a 2016 Annual Work Plan.

The marine planning guidance document includes critical new details, including guidance related to public review of draft marine plans (e.g. minimum of 30 days and maximum of 90 days, without specifying the particular type of public review required and excluding an absolute *Federal Register* publication requirement), as well as the National Ocean Council's marine plan review/certification process.

However, rather than providing stakeholders and the public with an important and transparent opportunity to provide insight and input on the proposed guidance through public review and comment, the National Ocean Council merely released the document in final form.

As to the 2016 Annual Work Plan, without providing further information, that document notes that there are ~150 remaining National Ocean Policy implementation actions which cannot be completed due to changing circumstances or that are continuing to progress as originally envisioned or with modifications. It further notes that a "longer-term, higher-level" implementation guide is under development and will be posted online when completed. The 2016 Annual Work Plan states that the longer-term guide "will provide the overarching context and vision for crafting the Annual Work Plans and implementing the NOP in future years."

- A. As a member of the National Ocean Council, please fully describe and explain DOE's involvement with the development and approval of the new marine planning guidance document.
- B. As a member of the National Ocean Council, did DOE at any time recommend the release of the guidance in draft form for public review and comment. If so, please fully describe and explain the response to the DOE recommendation, and if not, why not?
- C. As a member of the National Ocean Council, please fully describe and explain DOE's involvement with the development and approval of the 2016 Annual Work Plan.
- D. As a member of the National Ocean Council, did DOE at any time recommend the release of the 2016 Annual Work Plan in draft form for public review and comment. If so, please fully describe and explain the response to the DOE recommendation, and if not, why not?
- E. As a member of the National Ocean Council, please fully describe and explain DOE's involvement with the development and approval of the longer-term guidance document that has not yet been completed.

- F. As a member of the National Ocean Council, has or does DOE intend to recommend the release of the longer-term guidance in draft form for public review and comment. If such recommendation has already been made, please fully describe and explain the response to the DOE recommendation. If not, does DOE intend to make a public review/comment recommendation, and if not, why not?
 - G. As a member of the National Ocean Council, please fully describe and explain each of the ~150 remaining National Ocean Policy implementation actions that DOE is involved in but has not yet completed. In doing so, for each such action please describe whether the action is proceeding as originally intended or has been modified, and list any actions that DOE was directed to complete but cannot complete due to changing circumstances.
5. In conjunction with the development of the Northeast Regional Planning Body's marine plan, RPB members last summer discussed the need to convene a workshop or series of workshops with agency staff to discuss draft marine plan products and the development of agency guidance on their use.

Despite public requests for any such workshops to be public and that a written meeting record subsequently be made available, at a subsequent October 2015 Northeast Regional Planning Body Stakeholder Forum, it was noted that at least one interagency workshop took place (without any accompanying public notice or record).

In addition, despite public requests for more time for public review and comment on the Northeast and Mid-Atlantic draft marine plans, Regional Planning Bodies in both regions continue to move forward with planning for mere 45-day public comment periods.

- A. Please fully describe and explain DOE's involvement associated with any non-public governmental workshops held in 2015 related to the development and implementation of the Northeast marine plan.

In doing so, please include any and all notes, correspondence, and other documentation associated with such workshops. In addition, please explain whether DOE requested that any such workshops be open to the public and/or recorded for subsequent public dissemination, and if so, what the response was to any such DOE recommendation, and if not, why not.

- B. Do you believe that a 45-day public comment period for the draft Northeast and Mid-Atlantic marine plans is sufficient, particularly given that these will be the nation's first such plans and the associated regulatory uncertainty and potential impacts they will have on a variety of commercial and recreational interests that contribute trillions of dollars to the U.S. economy?
6. Section 6(b) of Executive Order 13547 that established the National Ocean Policy in July 2010 requires "[e]ach executive department, agency, and office that is required to take actions under this order shall prepare and make publicly available an annual report including a concise description of actions taken by the agency in the previous calendar year to implement the order, a description of written comments by persons or organizations regarding the agency's compliance with this order, and the agency's response to such comments."

- A. Pursuant to this requirement, for calendar years 2010, 2011, 2012, 2013, 2014, or 2015, has DOE prepared and published the annual report required under the Executive Order? If so, please describe the information provided, and if not, why not?

The Honorable Mike Pompeo

1. As you may know, on February 23, I and 17 other members of this Subcommittee filed an amicus brief before the DC Circuit regarding the Clean Power Plan. I'd like to draw your attention to some of the reliability issues that were raised by state utility commissioners in the same case and that should be of concern to the Energy Department.
 - A. Your budget request explains that "reliable and resilient power grid is critical to U.S. economic competitiveness." Yet, a brief was recently filed by Eighteen Former State Public Utility Commissioners representing 14 states including Kansas that found that the Clean Power Plan violates state utility regulation, the Federal Power Act, current state institutional arrangements, and the regulatory compact, resulting in profound threats to electric reliability. How does the Budget Request for resources help DOE to address the potential risk to the grid associated with this violation of the regulatory compact and the Federal Power Act that have served to maintain reliability for decades?
 - B. I turn now to resources for the states. Specifically, the 2017 DOE budget requests resources to assist "state, local, tribal, and territorial stakeholders in planning, training, and exercising in advance of energy emergencies." Yet, this same brief I already mentioned found that: "The only historic role left to state utility regulators is to present customers with the bill for the Power Plan's implementation." How will DOE's efforts be directed to ensure an appropriate and meaningful role for state and local government utility regulators as they strive to maintain reliability in light of the interference of the Clean Power Plan?
2. As President Obama's Administration begins its final year, the Committee is interested to know more about the regulatory actions the Department plans to take. We have reviewed your February 2016 Report to Congress and we further request from you a detailed timeline on all proposed and final rules for the remainder of the calendar year. We ask that this request be fulfilled within 30 days of this hearing.
3. Over the years, scientists have discovered that while refrigerants have the positive impact of producing cooled (or hot) air, they can have a negative impact on the environment. The industry has identified alternatives to hydrochlorofluorocarbon (HCFC) and, more recently, to hydrofluorocarbon (HFC) refrigerants to address these environmental concerns. Because HFCs have been identified as contributors to global warming, the Environmental Protection Agency (EPA) began the process of disapproving the continued use of some of these refrigerants, and international discussions are underway to phase-down the use of high GWP HFCs. However, research has shown that many promising alternatives are classified by as flammable or mildly flammable, which limits their ability to be used in most U.S. applications without changes to current safety codes and building codes.

Your agency has issued ever increasing minimum efficiency standards for many heating and cooling products that currently use HFC refrigerants. Manufacturers will soon face the intractable challenge of having to meet these higher efficiency standards without the use of commercially available and safety certified refrigerants.

- A. What is the Department of Energy planning to do to help conduct the research necessary to facilitate the modifications to current safety and building codes required so these lower GWP refrigerants can be used to meet the very efficiency standards you have promulgated?
4. In December 2012, Congress passed the American Energy Manufacturing Technical Corrections Act (AEMTCA) which directs the Department of Energy (DOE) to establish a uniform efficiency descriptor for residential water heaters and with it, a mathematical conversion factor for existing water heaters. AEMTCA, now Public Law 112 – 210, gave the Department one year to issue both of these descriptors. It is now February 2016, and your department is more than two years behind schedule issuing the conversion factor. This has left the existing stock of water heaters in limbo as to what their published efficiency rating should be. Without the required conversion factor, manufacturers must spend millions of dollars to retest products that have already been tested and certified under the prior test procedure as meeting federal standards. In addition, the lack of a conversion factor hinders new products from entering the market since new water heaters must meet the new UEF requirements but those minimums are yet to be established since they rely upon converting the minimum efficiency level under the prior efficiency descriptor to the new minimum under UEF, using the long-awaited DOE-issued conversion formula.

The lack of the required conversion factor has left manufacturers with the risky choice to publish product ratings under the old efficiency descriptor, hoping the conversion factor, once published, will not disqualify existing products from compliance. Not only has DOE failed to meet congressionally mandated deadlines, but it is hindering manufacturers' ability to properly plan their product development.

- A. Why has the Department failed to perform this task assigned to them by Congress?
- B. What is the Department's timeline for issuing this overdue conversion factor?
- C. What does the Department plan to do with manufacturers' products that currently comply with federal standards, but may find themselves in non-compliance after the conversion factor is issued?
5. In the past five years, the Department of Energy (DOE) has been forced into litigation over three rules affecting air conditioning, heating and refrigeration products, alone. Either through settlements or by judicial decree, the Department has had to reissue rules affecting residential furnaces, commercial refrigerators, and walk-in freezers. These lawsuits cost the federal government money and time in not only redoing the rulemakings but also because of the Department of Justice's work needed to prepare legal briefs, filings and proceedings. On top of all this, manufacturers were left with market uncertainty, not knowing on what types of products to invest their precious research and development dollars. In summary, the current regulatory process has become inefficient, confrontational and, at best, onerous to all stakeholders.

- A. Do you, Mr. Secretary, think the current “notice and comment” process involved in writing product regulations is still the most effective way to promulgate minimum efficiency standards?
- B. In 1995, the Clinton Administration, of which you were a part of, worked with stakeholders to produce the Process Improvement Rule, which created greater input from stakeholders regarding economic impact, market trends and engineering analyses. Why has your Department moved away from many of the provisions contained in the Process Improvement Rule as you craft regulations?
- C. Is there a better, more transparent and efficient way for the Department of Energy to issue minimum efficiency regulations that meet EPCA’s requirements that any efficiency standard reducing the energy use of a product be both technologically feasible and economically justified?
- D. What are your recommendations on reforming or updating this 40 year standard setting process, beginning with the Energy Policy and Conservation Act of 1975? Is it time to again bring all parties together to discuss ways to make the process work better so as to avoid litigation and the constant involvement of Congress in individual efficiency standards?

The Honorable Markwayne Mullin

1. Mr. Secretary, there has been an effort to identify the many possible threats to our national grid, from cyber-attacks, natural disasters and terrorist threats. In response, this Committee has passed legislation affecting your department, such as making DOE the lead agency for addressing cyber threats against the bulk power systems and studying ways to stockpile spare transformers for grid restoration. With the Department’s unique relationship with the national labs and as part of the national intelligence community, and your work with the Electricity-Sector Coordinating Council, what interaction is your Department planning for Fiscal Year 2017 to support the utility industry to protect against electromagnetic pulses? For example, is the Department working with industry to share important information on research already completed that could be used to better understand what preparations could be done in advance to protect the grid from an EMP threat?
2. Mr. Secretary, there has been an ongoing effort I know you and the Department of Energy have been working closely with the Electricity-Sector Coordinating Council to coordinate efforts with the public and private sectors to identify and protect against the many possible threats to our national grid, from cyber-attacks, natural disasters and terrorist threats.. However, the ESCC is limited to those participants from industry who are invited to serve on the group. Therefore, I would like to ask how the Department is working with industry outside of the ESCC to ensure sensitive and classified information is being shared on a broader approach.