

Statement for the Record

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FOR A HEARING ON

APPLIANCE STANDARD RULEMAKINGS

**BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON ENERGY**

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Chairman Rush, Ranking Member Upton, and members of the subcommittee, thank you for the opportunity to discuss the Department of Energy's appliance standards program and ways in which the Department is improving the process we use to develop energy conservation standards. The program, within DOE's Office of Energy Efficiency and Renewable Energy (EERE), has far-reaching impacts on American consumers and businesses, implementing minimum energy conservation standards for more than 70 categories of labor-saving appliances and equipment.

As EERE Assistant Secretary, I am responsible for overseeing a broad portfolio of energy efficiency and renewable energy programs. The technologies in my portfolio advance America's economic growth and energy security while enhancing the reliability and resilience of the U.S. energy system.

One of my top priorities for EERE is energy affordability. Affordable, reliable energy is critical to human well-being. The use of energy helps keep us safe, saves us time, amplifies our work efforts, and reduces the effects of distance, among other benefits. When energy is more affordable, it frees up more of our budget and time so we can spend these precious resources on the things we care about most.

While we have made positive progress toward more affordable energy, there is much more work to do. Economic growth has lifted billions of people out of extreme poverty, but nearly half of the world's population still lives on less than \$5.50 a day.¹ Energy affordability affects people in the United States. According to the most recent results from the U.S. Energy Information Administration's Residential Energy Consumption Survey (RECS), "[n]early one-

¹ The World Bank, "Nearly Half the World Lives on Less than \$5.50 a Day," *Press Release*, October 17, 2018. <http://www.worldbank.org/en/news/press-release/2018/10/17/nearly-half-the-world-lives-on-less-than-550-a-day>

third of U.S. households reported facing a challenge in paying energy bills or sustaining adequate heating and cooling in their homes.”²

When we work towards making energy more affordable, we are helping people who are struggling economically. When we have plentiful and affordable energy in the United States, it helps businesses grow by reducing a critical cost and it makes the United States more competitive globally.

This challenge of affordable energy is one of the things that makes the EERE portfolio so important. For example, we have seen large improvements in many EERE technologies over the last ten years alone. Probably the most cited successes are the dramatic reduction in the price of photovoltaic (PV) solar and onshore wind. But there are other important successes, including the reduction in the cost of electric vehicle (EV) battery packs, significant reductions in the cost of light-emitting diode (LED) lightbulbs, and improvements to the energy productivity of our homes, businesses, and industries.

Technological innovation is the driving force behind these successes. EERE has played a role in reducing the cost of various energy technologies and also the end-use equipment, appliances, and devices that consume energy—both through research and development and through the efforts of the EERE Appliance and Equipment Standards Program.

As reported in the Fall 2018 Unified Agenda of Regulatory and Deregulatory Actions, EERE has 50 active regulations in various stages of development that it plans to take action on in the coming year, the vast majority of which are implementing components of the Appliance Standards Program. This number includes 24 test procedures and 17 energy conservation standards for products ranging from microwaves and lamp ballasts to commercial refrigeration

² U.S. Energy Information Administration, Department of Energy, “One in three U.S. households faces a challenge in meeting energy needs,” September 19, 2018. <https://www.eia.gov/todayinenergy/detail.php?id=37072>

equipment. Since January 20, 2017, DOE has issued 7 final rules pertaining to energy conservation standards and 2 final rules pertaining to test procedures under the Appliance Standards Program.

While we have had great success in administering the program, we believe that DOE can improve the process by which it develops these minimum standards to make the program even more effective. This is why we recently proposed to amend this process to enhance early engagement opportunities for stakeholders and increase certainty throughout our rulemaking process. These improvements will help reduce the burden of the process by which standards are developed, which can be costly and time consuming for stakeholders, and ensure that consumers' interest in avoiding significant increases in upfront cost and a loss of product choice are protected in the standards development process. These process improvements can be done within DOE's statutory mandate to establish energy conservation standards that achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified and that saves a significant amount of energy. Equally as important, these process measures can improve DOE's ability to comply with statutory deadlines the program has had difficulty meeting throughout its history.

Since the passage of the Energy Policy and Conservation Act in 1975, DOE has utilized a process for the consideration of new and amended energy conservation standards intended to ensure that such standards meet the statutory requirements that I just described. That process was first formalized in 1996 in DOE's so-called "Process Rule." The non-binding procedures established by the 1996 Process Rule typically take a minimum of three years to complete and consist of four phases, each with an opportunity for the public to provide input for the Department's consideration.

I'll briefly describe each of the 1996 Process Rule's four phases. In the first phase, DOE publishes a framework document that presents the basic analytical and procedural principles and legal authority that will guide the rulemaking. DOE also solicits feedback from stakeholders on specific questions. In the second phase, preliminary analysis, DOE gathers available data and information about the product's technical, economic, and market characteristics and makes preliminary determinations concerning methods of improving efficiencies and the impacts of doing so. DOE then publishes this analysis and solicits public input. During the third phase, the proposed rule, DOE considers public input from the preliminary analysis, revises its analysis as appropriate, and proposes to the public an efficiency level that it has determined would result in the maximum improvement in energy efficiency that is both technological feasible and economically justified, and would save a significant amount of energy. The final phase is the final rule, in which DOE considers public input in response to the proposed rule, further revises its analysis if appropriate, and issues the final rule. The final rule establishes any mandatory minimum energy conservation standard or sets forth DOE's determination that the current standards do not need to be amended. Typically, a final rule establishing a new or revised standard requires manufacturers to comply with the new standard within 3 to 5 years, providing those manufacturers time to make any investments or changes.

Additionally, during the four phases of the rulemaking process, DOE must also design a procedure to test the products subject to an energy conservation standard to measure their energy use for certification and compliance purposes. Doing so requires both engineering and analytical work to establish a test method that is reasonably designed to produce test results that measure energy efficiency of a covered product during a representative average use cycle or period of use and that is not unduly burdensome to conduct, as well as a rulemaking process to

receive public input. Moreover, the test procedure must be set in advance of determining a potential standard level for a product so that participants in the standards rulemaking have a uniform method by which to understand the technical basis for DOE's standards proposal and how a product's energy use will be measured.

All of this is to say that DOE's standards are not developed with a snap of the fingers. The process by which standards are developed is intended to ensure that all issues are thoroughly considered in the process so that the resulting standard meets DOE's statutory requirements with regard to energy savings, technological feasibility, and economic justification.

However, members of the public, including energy efficiency advocates, regulated manufacturers, their trade associations, and other interested stakeholders, have stated to DOE that there are ways to make the standards development process more effective for participants and result in better outcomes. In response to these well-informed suggestions, and as an important part of DOE's regulatory reform efforts, DOE released a proposed rule to amend its 1996 "Process Rule" to streamline and modernize its methods for setting energy efficiency standards and test procedures for residential appliances and commercial equipment on February 6th.

The proposal would substantially improve DOE's internal framework for establishing new energy efficiency regulations, guided by the principles of transparency, accountability, and certainty for stakeholders. The proposal would, among other things:

- 1) Establish a threshold for "significant" energy savings at 0.5 quads for each standard over the 30 year analysis period. The law requires DOE to regulate only where doing so would save a significant amount of energy. DOE reviewed the 57 standards rulemakings it has issued since 1989 and found that, of these

rulemakings, those that were estimated to save over 0.5 quads of energy totaled 109 quads in cumulative energy savings. These savings represent more than 96% of the total energy savings from all appliance standards since 1989. In contrast, those that saved less than 0.5 quads totaled 4.24 quads of cumulative energy savings over the same time period, or less than 4% of total energy savings. Prioritizing standards that are poised to save more than 0.5 quads over 30 years allows the Department to focus on the rules that have the greatest impact on the environment and save the most money for consumers. As a backup, DOE also proposes an alternative threshold such that each rule would need to achieve at least a 10% energy savings over the current standard so that rules covering fewer products do not slip through the cracks. Drawing the line here seems eminently reasonable given the results of DOE's rulemakings over the course of nearly 30 years. Moreover, this threshold allows us to implement Congress' mandate that the Department regulate only when doing so will save a significant amount of energy without sacrificing the energy savings that consumers and businesses value.

- 2) Require that DOE establish test procedures 180 days before initiating a new energy conservation standard rulemaking. This timeframe is the same as that prescribed in the Department's 1996 Process Rule; however, in the past DOE has not always met this timeframe, and as a result stakeholders have been concerned when DOE regulates the efficiency of products before specifying how energy use will be measured through the test procedure. This provision provides certainty to all stakeholders.

- 3) Clarify that DOE will codify industry consensus standards for test procedures, but only when doing so would accurately reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle and not be unduly burdensome. This change would insert the statutory criteria for assessing a test procedure into the process and allow manufacturers to test their products at lower cost than when DOE creates a separate testing metric.
- 4) Expand the opportunities for stakeholders to become engaged early in the rulemaking process. DOE interacts with a wide spectrum of stakeholders in the development of new energy conservation standards and test procedures. These stakeholder perspectives are a crucial component of the rulemaking process.

The proposed Process Rule would modernize the framework for DOE's Appliance Standards Program, which has not been updated since its issuance in 1996. This updated framework would require the development of test procedures before energy conservation standards, creating a more transparent and predictable rulemaking process. In addition, the changes that DOE is proposing would focus the Department's resources on the rulemakings that stand to benefit consumers the most by prioritizing the standards that have the potential to save the greatest amount of energy. This change also shows that the Department is truly focused on pursuing standards with the greatest environmental benefit. By prioritizing the rules that are primed to save consumers the most money, the Department is streamlining its rulemaking process and better able to focus on meeting its statutory deadlines.

DOE believes that the proposed changes to the "Process Rule" would result in a fair, well-reasoned and legally compliant process for standards development according to the requirements established by Congress in the Energy Policy and Conservation Act.

In addition to the “Process Rule” improvements, DOE has proposed another rule as an important part of its regulatory reform efforts for the Appliance Standards Program. On February 6th, DOE released a proposed rule to maintain the existing statutory definition of general service lamps and withdraw the definitions established in January 2017. This proposal reduces regulatory uncertainty by making clear that the sale of several lamp types (that is, light bulbs) will continue, including certain halogen A-line lamps, incandescent reflector lamps, globe lamps, and candelabra lamps. Millions of households use these light bulbs every day, and the Department recognizes the importance of access to reliable and affordable options that meet their needs, as well as the importance of consumer choice generally. For the first half of 2018, consumer shipments of the lamps that would have been included under the expanded scope of lamps established by the 2017 final rules totaled approximately 275 million units. Over half of these shipments went to home center stores and discount, variety, and department stores.

Through this proposal, DOE is showing that it will follow the text of the law. Maintaining the statutory definitions provides manufacturers and retailers with the regulatory certainty that they are not prohibited from selling hundreds of millions of bulbs. At the same time, DOE will continue to advance cutting-edge research and development of next-generation lighting technologies to drive further improvements in efficiency and affordability.

DOE is committed to working with Congress as it considers these and other issues of importance to DOE’s Appliance Standards Program. Thank you for the opportunity to appear before the Subcommittee today to discuss these important energy efficiency issues, and I look forward to your questions.