



Testimony of Alicia Huey

**On Behalf of the
National Association of Home Builders**

**Before the
House Small Business Committee**

**Hearing on
“Burdensome Regulations: Examining the Effects of Department of Energy
Regulations on America’s Job Creators”**

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Introduction

Chairman Williams, Ranking Member Velázquez and members of the committee, I appreciate the opportunity to appear before you today on behalf of the National Association of Home Builders (NAHB) to share our views on how burdensome government regulations and mandates impact our industry's ability to increase the production of quality, affordable housing. My name is Alicia Huey, and I am NAHB's 2023 Chairman of the Board of Directors and a custom home builder and developer from Birmingham, Ala.

NAHB represents more than 140,000 members who are involved in building single-family and multifamily housing, remodeling and other aspects of residential and light commercial construction. NAHB's members, most of whom build 10 or fewer homes per year, construct approximately 80% of all new housing in the United States each year.

As a small business owner operating in a heavily regulated industry, I understand how difficult and often costly it can be to comply with the myriad government regulations that apply to my day-to-day work. While today's hearing is focused specifically on Department of Energy (DOE) regulations, it would be impossible to offer this testimony without noting the vast array of regulatory costs imposed on the home building industry by any combination of federal, state and local governments. These costs include those associated with complying with federal labor and environmental regulations, building codes and standards, local zoning ordinances, as well as fees imposed at different stages of the development and construction process. And these costs are not insignificant.

An NAHB study on regulatory burdens shows that nearly 25% of the price of a typical newly-built single-family home is due to the broad set of regulatory burdens imposed by state, local and federal governments. Moreover, between 2011 and 2016, such costs increased by 29%, faster than inflation and economic growth. Such burdens are high for apartment construction as well, as an updated joint study by NAHB and the National Multifamily Housing Council conducted in June 2022 found that up to 41% of apartment development costs are due to regulations.¹ These burdens are particularly noteworthy in an industry where margins are so thin and consumers' sensitivity to price fluctuation is so acute.

Regulatory costs have a direct and negative effect on housing affordability. NAHB's "Priced Out" Estimates for 2022 show that 117,932 households would be priced out of the housing market if the median U.S. new home price rises by \$1,000.² As a benchmark, 87.5 million households (roughly 69% of all U.S. households) are not able to afford a median-priced new home. Similarly, an analysis using 2018 data found that a \$1,000 increase in the cost of building a new rental unit will price out almost 20,000 renters for that apartment.³

The nation is experiencing a housing affordability crisis and there already are significant challenges to addressing that concern. Home builders understand and appreciate that addressing the effects of climate change is a top priority of the DOE; however, conversations such as we are having today in this committee will be helpful in better understanding how further regulating the home building industry will

¹ <https://www.nahb.org/news-and-economics/press-releases/2022/06/new-research-shows-regulations-account-for-40-point-6-percent-of-apartment-development-costs>. <https://www.nahb.org/news-and-economics/press-releases/2022/06/new-research-shows-regulations-account-for-40-point-6-percent-of-apartment-development-costs>.

² <https://www.nahb.org/-/media/05E9E223D0514B56B56F798CAA9EBB34.ashx>.

³ Based on the 2018 median rent of \$2,189, a \$1000 increase in the cost of building a new apartment unit would price out 19,617 renters.

add more uncertainty, delays and costs to the home building process and thereby undermine the ability of the Biden administration to meet its housing goals.

Housing Affordability and the Need for Additional Supply

Safe, decent, and affordable housing provides fundamental benefits that are essential to the well-being of families, communities, and the nation. For these reasons, housing affordability is NAHB's top advocacy issue. NAHB's research shows that housing affordability in the single-family market is at its lowest level since NAHB began tracking it on a consistent basis in 2012. According to the NAHB/Wells Fargo Housing Opportunity Index (HOI), just 40.5% of new and existing homes sold between the beginning of April and the end of June 2023 were affordable to families earning the U.S. median income of \$96,300.⁴ Clearly, owning or renting a suitable home is increasingly out of financial reach for many households. According to Harvard's Joint Center for Housing Studies, in 2020, the nationwide share of cost-burdened households paying more than 30% of their incomes for housing stood at 30%. Moreover, 14% of all households were severely burdened and were spending more than one-half of their incomes on shelter.⁵

As a nation, we can and must do better. All home buyers and renters in America should have a choice in securing safe, decent and affordable housing where they want to live. America's workforce families, including members of the armed forces, teachers and first responders, should be able to afford to live in homes or apartments in the communities they serve. NAHB strongly believes that increasing the inventory of new single-family and multifamily housing is key to improving housing affordability. However, the lack of housing supply is not the only factor impacting housing affordability. Government policies and regulations are making it harder and harder for home builders and multifamily developers to build housing that is affordable.

DOE Mandates and Programs Impacting the Home Building Industry

Residential construction is one of the most heavily regulated industries in the country. The time and cost invested in complying with regulations impacts a business's ability to thrive and grow; they also can negatively affect housing affordability and stifle economic development. As noted above, in these challenging economic times, the decrease in housing production and increase in price clearly indicate the need to reduce the regulatory burden on the housing industry.

Residential construction is one of the few industries in which a government-issued permit typically is required for each unit of production. Additional rules create a constricting web of regulatory requirements that affect every aspect of the land development and home building process and add substantially to the cost of construction. The breadth of these regulations is largely invisible to the home buyer, the public, and even the regulators themselves. Nevertheless, they have a profound impact on housing affordability and prevent many families from becoming homeowners.

While onerous building regulations stem from an alphabet soup of agencies including among others the Environmental Protection Agency (EPA), the Department of Labor (DOL), the Occupational Safety and

⁴ <https://www.nahb.org/news-and-economics/press-releases/2022/11/housing-affordability-falls-to-more-than-10-year-low-as-rising-interest-rates-take-a-toll>. <https://www.nahb.org/news-and-economics/press-releases/2022/11/housing-affordability-falls-to-more-than-10-year-low-as-rising-interest-rates-take-a-toll>.

⁵ https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_State_Nations_Housing_2022.pdf. https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_State_Nations_Housing_2022.pdf.

Health Administration (OSHA), and United States Department of Housing and Urban Development (HUD), the following regulations and programs overseen by DOE are particularly concerning to home builders:

- Transformer Standards

DOE has recently proposed a new rule to increase the energy efficiency standards for distribution transformers. The timing of this proposed rule could not be worse and is certain to make an already bad situation worse. If finalized as proposed, manufacturers will be forced to retool production lines to produce new transformers instead of addressing the historic backlog that is hampering development across the country. As such, NAHB supports H.R. 4167, the *Protecting America's Distribution Transformer Supply Chain Act*, that prohibits the Secretary of Energy from changing energy conservation standard for distribution transformers for a period of five years.

Transformers are an essential part of the electrical grid bringing power to homes and businesses. Homes cannot be sold unless a transformer is installed and working, and power is being sent to the home. For the past few years, lead times to obtain transformers have remained stubbornly long, ranging anywhere from 18 to 24 months as global supply chains continue to heal in the wake of the COVID-19 pandemic. Delays in transformer availability and installation are completely halting home building projects in many areas and frustrating recovery efforts in those affected by natural disasters. In addition, for the home building business, delays result in additional costs.

DOE's proposed rule is particularly troubling because it would dictate that manufacturers increase the efficiency of distribution transformers by a mere one-tenth of a percentage point even though the agency *already* mandates distribution transformers be manufactured to incredibly high efficiency standards. Importantly, due to the intricate ways transformers are designed and assembled, increasing their efficiency even by a fraction of a percentage point could add months to an already lengthy order-cycle. Additionally, the proposed rule would require manufacturers to transition to a different type of steel, which is largely untested, less flexible and more expensive. The existing supply of this alternative steel is very limited and mostly foreign-sourced.

Energy efficiency standards play an important role in reaching decarbonization benchmarks while transitioning our nation to a clean and increasingly electrified economy. However, as proposed, the rule would delay the realization of these benefits while at the same time exacerbating the current distribution transformer shortage crisis at the expense of housing affordability.

- Electrification and Gas Stoves

Concerns about the impacts of climate change have compelled policymakers at all levels to look for ways to cut greenhouse gas emissions (GHG) across all sectors of the U.S. economy. These efforts are concerning for several reasons. First, because new construction is already significantly more energy efficient than the existing housing stock, any GHG emissions reductions gained through electrifying new construction would be far less than reductions gained by improving the energy efficiency of existing homes.

Second, although electrification may provide benefits in certain applications, electrification mandates can be costly and infeasible in some areas of the country and create challenges for builders, homeowners and consumers. For example, due to performance limitations of electric heat

pumps in colder climates, the continued use of fossil fuel may be the only feasible option in certain circumstances and locations. Likewise, because electrification can result in both increased initial costs and higher utility bills, electrification may place additional burdens on the consumer. A study conducted by the Home Innovation Research Labs in 2021 found that the additional up-front cost to build an all-electric house (as compared to a house with natural gas equipment and appliances) ranged from \$3,832 to \$15,100 depending on the climate zone.⁶ Importantly, these estimates do not include fees for upgrading electric service or providing community electric infrastructure, which can be substantial.

Finally, electrification policies can adversely impact consumer choice. DOE's current proposed rule, *Energy Conservation Standards for Consumer Conventional Cooking Products*, would ban the sale of most current gas cooktop models sold in the United States. As home builders, we believe our customers have a right to choose the appliances and energy sources used in their homes. Over 187 million Americans currently use natural gas appliances, saving them an average of \$1,068 each year.⁷ Gas stoves are used in nearly 40 million homes nationwide and have proven to be a safe, efficient and affordable appliance choice for families for well over a century. The proposed rule would drastically limit the availability of gas stoves across the country, as it will take manufacturers time to develop and produce appliances that meet these new requirements. The appliance production delay in combination with ongoing nationwide supply chain issues will result in consumers paying more for both electric and gas stoves in the coming years.

- Building Energy Codes

Although referencing building codes in federal legislation and regulatory programs is not new, over the past few years there has been growing concern over the breadth of programs and issues for which building codes, and in many cases more stringent building codes for new homes, are purported to be the answer. This approach unfairly burdens new construction and often will do little to meet the intended goals. For example, requiring new homes to meet stringent energy efficiency goals price many would-be home buyers out of the market and compel them to stay in older, less efficient homes. At a minimum, any federal policies and programs need to provide sufficient flexibility and incentives so that the intended results can be met with minimal negative impacts.

Inflation Reduction Act Funding

The Inflation Reduction Act provided \$1 billion in grants for state and local governments to adopt costly and restrictive energy codes, such as the 2021 International Energy Conservation Code (IECC). This funding is overseen by DOE's Office of State and Community Energy Programs, which issued guidance on September 19, 2023, regarding the adoption, implementation, training, enforcement and measurement of compliance rates of specified building energy codes. While NAHB supports the adoption of cost-effective, modern energy codes, we oppose any federal funding that prohibits jurisdictions from adopting amendments to the energy code to accommodate local conditions and address cost-effectiveness concerns.

⁶ Home Innovation Research Labs, *Cost and Other Implications of Electrification Policies on Residential Construction*, February 2021. <https://www.nahb.org/-/media/NAHB/nahb-community/docs/committees/construction-codes-and-standards-committee/home-innovation-electrification-report-2021.pdf>.

⁷ <https://www.aga.org/research-policy/resource-library/energy-insights-comparison-of-home-appliance-energy-use-operating-costs-and-carbon-dioxide-emissions/>.

The energy codes developed through the International Code Council and ASHRAE consensus processes have increased the efficiency of new residential buildings by 40 to 50% over the last 20+ years. In other words, modern energy codes are energy efficient. Unnecessarily forcing the adoption of costly and restrictive energy codes to qualify for these grants will exacerbate the current housing affordability crisis and limit energy choice for consumers. Adoption of the 2021 IECC can add as much as \$31,000 to the price of a new home yet can take as long as 90 years for the homeowners to see a payback from this investment. In addition, these increased requirements and higher costs can result in a decrease in production and longer permitting and construction times, which will further exacerbate housing affordability challenges. In the end, implementation of these grants will result in fewer families being able to achieve the American dream of homeownership.

It is not just the lure of federal funding that is being used to force the implementation of costly and unnecessary energy codes, as the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Agriculture (USDA) are considering requiring the 2021 IECC for virtually all new construction supported by HUD and USDA. Such mandates will have an especially negative impact on historically underserved communities and first-time home buyers, two of the very groups these agencies seek to support and who are highly sensitive to price fluctuations at the low-to mid-price range of the housing market. Builders will also face major hurdles under this proposal, including finding qualified inspectors and complying with a patchwork of building requirements.

Finally, focusing on initiatives that will increase costs for new housing and buildings while ignoring the existing older structures, which constitute more than 80% of the U.S. building stock and are responsible for an even greater portion of greenhouse gas emissions and energy consumption, makes little sense as a policy matter. Because new homes are built to modern energy codes and account for a small share of the total housing inventory, they use only a small share of the annual energy consumption attributed to the residential sector. Therefore, any efforts to reduce overall energy consumption must recognize and address the glaring disparity between the new and existing housing stock.

National Model Building Code Development

In addition to promoting and funding the adoption of increasingly restrictive and costly building energy codes, DOE staff regularly participate in the development of the model energy codes and standards. But instead of serving as impartial technical advisors and a resource for those looking to construct energy efficiency structures, they aggressively advocate for and support proposals, including many that have nothing to do with efficiency, such as requirements to install electric vehicle chargers or whole-home electrification. Further, while they may give consideration to the practicality or cost of implementing certain code proposals, the formulas and methodologies they use to determine and promote energy savings remain elusive, thereby denying other stakeholders from fully understanding how or why calculations were made or having an opportunity to refute the agency's claims. Further, the imprimatur of DOE oftentimes pervades the vote and unduly influences the outcome. Rather than focusing on further (and unnecessary) improvements to the energy efficiency of newly constructed homes, DOE should focus on creating initiatives and programs that foster market solutions for upgrading the existing housing stock.

Existing Housing Stock

The American housing stock continues to age, and due to the recent decrease in production, there is increasing pressure to keep existing homes in service longer – homes that may not perform as well or be as efficient as newer homes. One hundred and thirty million homes out of the nation's housing stock of 137 million were built before modern buildings took effect in 2010. Equally problematic, the latest Census statistics show the number of homes built before 1970 that are taken out of commission is only about six out of every 1,000 being retired per year. These low rates of replacement mean that the built environment in the U.S. will change slowly and continue to be dominated by structures that are at least several decades old.

Many Older Homes are In Need of Upgrades

Older homes are less energy efficient than new homes. They were not built to the stringent requirements contained in modern codes, use (and lose) more energy, and often have less insulation and inefficient heating and air conditioning systems. According to NAHB research, even though newer homes are larger, their average site energy consumption is often lower as a result of higher energy efficiency. While a typical U.S. household consumes 77.1 million BTU per year, households occupying units built since 2010 use 67 million BTU per year. Clearly, improvements in construction practices and building codes have made significant strides in reducing the energy use in new construction. However, the most cost-effective improvements have already been made and further gains will be difficult and costly.

In order to meet our national energy efficiency goals, many have recognized improvements must be made in all sectors and that retrofitting the existing building stock will be necessary. According to the National Renewable Energy Laboratory, upgrades to the existing housing stock could yield a projected reduction of 5.7% of the total annual U.S. electricity consumption in 2030. Given this potential, coupled with the array of options and opportunities that exist to do so (e.g., replace/repair doors, windows, insulation, lighting, appliances; install energy management systems, heat pump, solar photovoltaics; glaze windows, install window treatments, etc.) upgrades to the existing housing stock must be a primary focus if the nation is to make measurable progress.

Incentives are Vital

Incentive programs that offset the costs associated with energy efficiency improvements are an important tool to reduce the barriers that many homeowners face and encourage them to invest in home modernization. For example, due to the high initial costs associated with purchasing and/or installing certain features to increase their home's efficiency, many homeowners are unable to finance desired or necessary upgrades and, without assistance, would likely forego the improvements. Incentives that are available at the federal and state levels, as well as those that could be offered through the real estate valuation and transaction processes, can address this issue, produce results and have proven to be attractive alternatives to mandates.

Importantly, to be even more effective, the value of energy efficiency must be better recognized and monetized to further promote its impact and benefits. For example, making modifications to property valuation and financing protocols and ensuring loans, grants and other federal funding programs are accessible and widely applicable can send strong messages to homeowners that they will receive a return on their efficiency-related investments.

While this administration has made a number of funding streams and incentives available to boost the efficiency of existing structures, such upgrades are not always that easy. Oftentimes little is known about the building or its structural soundness, limited funding levels may hinder needed work, challenging and lengthy application processes and regulations may stifle progress and a lack of workers to conduct the remodeling or upgrade projects may hinder the feasibility of completing said work. Last month, the Biden administration announced \$100 million in funding to make 1,500 low-income homes in the U.S. more energy efficient and resilient to climate change. This calculates into \$66,000 for each home – an eye-opening sum that further demonstrates and validates the financial challenge that energy efficiency upgrades pose for those who own older homes.

NAHB Urges Action

Increased regulations and building code requirements, among other things, add significant costs to homes and further harm housing affordability. To mitigate this housing affordability crisis, NAHB continues to urge both Congress and the Biden administration to address the primary factors limiting builders' ability to increase the supply and affordability of new housing. These factors can be summarized as the five L's: lack of labor, lack of lots and land, lumber and materials shortages, lending challenges, and finally and most importantly for today's proceeding - laws and regulatory burdens. While there is no silver bullet, NAHB has long held the only sure way to safeguard against future bad regulation is to fix the broken regulatory rulemaking process. Accordingly, NAHB urges Congress to pass legislation such as H.R. 358, the *Small Business Regulatory Flexibility Improvements Act*, to ensure that all regulations are designed with small businesses in mind, that regulatory rulemaking agencies are required to consider the true cost of regulations on small businesses, and that regulatory rulemaking agencies comply with the letter and intent of the law in crafting new regulations.

Conclusion

Thank you, Chairman Williams and Ranking Member Velázquez for convening this important hearing and allowing NAHB to share our views on the effects of DOE regulations on our industry's ability to increase the production of quality, affordable housing. These are important conversations and NAHB stands ready to work with you and members of the committee to reform our broken regulatory rulemaking process and expand the availability of affordable housing for all Americans.