COMMITTEE ON
ENERGY & COMMERCE
CHAIRMAN FRANK PALLONE, JR.

MEMORANDUM

March 4, 2019

To: Subcommittee on Energy Members and Staff

Fr: Committee on Energy and Commerce Staff

Re: Hearing on "Wasted Energy: DOE's Inaction on Efficiency Standards & Its Impact on Consumers and the Climate"

On **Thursday, March 7, 2019, at 10 a.m. in room 2123 of the Rayburn House Office Building**, the Subcommittee on Energy will hold a hearing entitled "Wasted Energy: DOE's Inaction on Efficiency Standards & Its Impact on Consumers and the Climate."

I. BACKGROUND

A. Energy Efficiency

Federal energy efficiency standards reduce energy waste, create jobs, encourage innovation, and help U.S. manufacturers remain competitive in a global market.[1] Efficient use of energy by appliances and equipment in U.S. homes, buildings, and industries is responsible for nearly $2 trillion in utility bill savings since 1987.[2] Such use is predicted to reduce carbon emissions by at least 3 billion metric tons by 2030.[3]

The U.S. Department of Energy (DOE) has finalized dozens of national energy efficiency standards for appliances and equipment over the past 30 years. Statute requires that standards be cost-effective for consumers – each standard must result in a cost savings above and beyond the product cost over its lifetime, and the savings must reach all segments of the economy. Efficiency standards help low-income households save money on utility bills each time a landlord replaces an outdated appliance.[4] These efficiency programs are successful and continue to draw strong support from consumers due to these savings and for other reasons.[5] A typical

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[1] Natural Resources Defense Council, *The $2 Trillion Success Story: Energy Efficiency Standards* (Mar. 2017) (www.nrdc.org/sites/default/files/energy-efficiency-standards-success-story-fs.pdf).

[2] *Id.*

[3] *DOE Mulls Changes to Appliance Efficiency Program*, Utility Dive (Nov. 28, 2017).

[4] *Id.*

[5] Appliance Standards Awareness Project, *Appliance Standards Questions and Answers* (Mar. 2017) (www.appliance-

U.S. household saves about $500 on energy bills every year because of federal energy efficiency standards.

Another outcome of the energy efficiency standards program is job creation. Of the entire energy sector, energy efficiency jobs are the fastest growing, adding 133,000 new jobs in 2017. The energy efficiency field currently employs 2.25 million Americans – twice that of all fossil fuel sectors combined. There are also 315,587 Americans who hold manufacturing jobs in energy efficiency, an increase of nearly 10 percent in 2017 alone. Veterans hold 11 percent of energy efficiency jobs, which is nearly double the national average of veterans in the workforce (six percent).[6]

Studies show that energy efficiency measures are an inexpensive way to reduce greenhouse gas emissions. Reducing the amount of fossil fuels burned at power plants results in decreased emissions of carbon dioxide and other pollutants. Cutting nationwide energy consumption by 15 percent for one year through efficiency measures could help save six American lives per day and avoid up to $20 billion in health-related problems.[7]

B. Energy Policy and Conservation Act

In 1975, Congress first authorized the executive branch to develop, revise, and implement minimum energy conservation standards for appliances and equipment through Title III of the Energy Policy and Conservation Act (EPCA), which was signed into law by President Ford.[8] Over the last 40 years, EPCA's energy conservation standards have been revised several times, resulting in controversial amendments and, often, litigation. In 1982, DOE challenged an amendment requiring appliance efficiency standards to be set for 13 appliance types, provided they were economically justified. The court ruled against DOE and in favor of setting appliance efficiency standards, leading to the enactment of the National Appliance Energy Conservation Act (NAECA), signed into law in 1987 by President Reagan. NAECA specified efficiency standards for numerous household and commercial appliances in addition to policies for the periodic update of those standards by DOE.[9]

The most recent revision to EPCA Title III occurred as a part of the Energy Independence and Security Act of 2007. That revision required new or updated standards for 13 products,

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standards.org/sites/default/files/Fact%20Sheet_Why%20National%20Appliance%20Standards%20Mar%202017.pdf).

[6] E4 The Future, *Energy Efficiency Jobs in America* (Sept. 2018) (www.e4thefuture.org/wp-content/uploads/2018/09/EE-Jobs-in-America-2018.pdf).

[7] Natural Resources Defense Council, Energy Efficiency Saves Lives, Avoids Huge Health Costs (www.nrdc.org/experts/juanita-constible/energy-efficiency-saves-lives-avoids-huge-health-costs) (Feb. 22, 2018).

[8] 42 U.S.C. 6291, et. seq.

[9] Julia Richardson and Robert Nordhaus, *The National Energy Act of 1978*, Natural Resources & Environment (Summer 1995).

while also directing DOE to regularly review and update all standards and test procedures. Currently, there are more than 60 types of appliances and equipment mandated for efficiency standards by EPCA.

Since the start of the Trump Administration, DOE has failed to publish energy efficiency standards adopted and finalized during the Obama Administration. DOE has also failed to update 16 appliance and equipment standards as required by federal law. This inaction violates DOE's statutory obligations under EPCA.[10] DOE's failure to publish the finalized standards could potentially "cost Americans $8 billion in higher energy bills and create uncertainty among U.S. manufacturers."[11]

On February 6, 2019, DOE announced plans to narrow the scope of energy efficiency standards for lightbulbs,[12] which are projected to save consumers approximately $665 billion through 2050.[13] Enacted by Congress in 2007 on a bipartisan basis and signed into law by President George W. Bush, minimum lightbulb efficiency standards have spurred market changes and innovations that have driven down consumer costs, created jobs, and maintained U.S. industry competitiveness.

C. The Standard Setting Process

DOE's Building Technologies Office – which is under the purview of the Assistant Secretary for Energy Efficiency and Renewable Energy – implements the efficiency standards provisions of EPCA Title III. As detailed above, many of the appliance standards to be promulgated are specifically required by statute and, in some cases, the statute contains very specific direction to DOE on how to proceed with the standard setting and testing process.

In an effort to improve its process to develop appliance efficiency standards, DOE conducted a formal effort, between 1995 and 1996, to revise the standards. These revisions, referred to as the Process Rule, encompassed several objectives, such as increasing work with stakeholders, improving transparency and predictability in the process, and reducing the time and cost of developing standards. The stakeholders that were involved in this process included manufacturers, energy-efficiency advocates, trade associations, state agencies, utilities, and other

[10] 10 C.F.R. 430.5. Publication of these standards is currently subject to ongoing litigation. On April 11, 2018, the 9th Circuit Court granted a stay pending appeal by the Department of Energy. *NRDC, Inc. v. Perry*, Nos. 18-15380, 18-15475 (9th Cir. 2018).

[11] *Court Rules Energy Dept. Must Implement Obama Efficiency Rules*, The Hill (Feb. 15, 2018).

[12] U.S. Department of Energy, *Energy Conservation Program: Energy Conservation Standards for General Service Lamps* (Feb. 6, 2019) (www.energy.gov/sites/prod/files/2019/02/f59/withdrawal-of-gsl-definition-nopr.pdf).

[13] Appliance Standards Awareness Project and American Council for an Energy Efficient Economy, *U.S. Light Bulb Standards Save Billions For Consumers But Manufacturers Seek a Rollback* (July 2018) (www.aceee.org/sites/default/files/bulb-standards-0803-2.pdf).

interested parties.[14] The Process Rule was further refined in 2010, when DOE announced additional changes, such as establishing a standing negotiated rulemaking committee.[15]

DOE recently released a proposed rule containing amendments to the Process Rule to modify internal agency procedures on how efficiency standards are developed.[16] The revisions now make it mandatory for test procedures on appliances to be released before rules, as well as require DOE to use test procedures, set by industry. This proposed change could cause significant delays to the release of an appliance's efficiency standard.[17]

II. WITNESSES

The following witnesses have been invited to testify:

Panel I

Daniel Simmons
Assistant Secretary, Office of Energy Efficiency and Renewable Energy
Department of Energy

Panel II

Katherine Kennedy
Senior Director, Climate & Clean Energy Program
Natural Resources Defense Council

Andrew deLaski
Executive Director, Appliance Standards Awareness Project
American Council for an Energy Efficient Economy

Charles Harak
Senior Attorney, Energy and Utility Issues
National Consumer Law Center

[14] 10 C.F.R. § 430 Appendix A to Subpart C (1996).

[15] U.S. Department of Energy, DOE Announces Changes to the Energy Conservation Standards Process (www.energy.gov/gc/articles/doe-announces-changes-energy-conservation-standards-process) (Nov. 16, 2010).

[16] U.S. Department of Energy, *Energy Conservation Program for Appliance Standards: Proposed Procedures for Use in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment* (Feb. 6, 2019) (www.energy.gov/sites/prod/files/2019/02/f59/process-rule-notice.pdf).

[17] *DOE Floats Another Contentious Overhaul of Standards*, E&E News (Nov. 30, 2017).

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