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DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE-2025-BT-STD-0001]

RIN 1904-AF72

Energy Conservation Program: Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Certain Commercial/Industrial Equipment

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Request for information.

SUMMARY: As part of its implementation of the Executive order, “Unleashing American Energy” (Jan. 20, 2025), the Department of Energy (DOE or the Department) is seeking comments and information from interested parties to assist DOE in identifying potential modifications to its procedures, interpretations, and policies for considering new or revised energy conservation standards and test procedures for consumer products and certain commercial and industrial equipment (*i.e.*, the “Process Rule”). DOE is initiating this effort through this request for information to ensure consistency with recently issued Executive Orders, while continuing to satisfy the Department's statutory obligations in the development of appliance and equipment standards under the Energy Policy and Conservation Act (EPCA). Subsequently, DOE expects to expeditiously publish a notice of proposed rulemaking (NOPR) that proposes potential changes to the Process Rule and

that will also provide feedback on the public comment received in response to this document and seek additional information on other potential improvements.

DATES: Written comments and information are requested and will be accepted on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov* under docket number EERE-2025-BT-STD-0001. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE-2025-BT-STD-0001 and/or regulatory information number (RIN) 1904-AF72, by any of the following methods:

- (1) *Email: ProcessRule2025STD0001@ee.doe.gov.* Include the docket number EERE-2025-BT-STD-0001 and/or RIN 1904-AF72 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.
- (2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.
- (3) *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 287-1445. If

possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, *see* section III (Public Participation) of this document.

Docket: The docket for this activity, which includes *Federal Register* notices, comments, and other supporting documents/materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket webpage can be found at www.regulations.gov/docket/EERE-2025-BT-STD-0001. The docket webpage contains instructions on how to access all documents, including public comments, in the docket. *See* section III of this document for information on how to submit comments through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Mr. Lucas Adin, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE-5B, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 287-5904. Email: ApplianceStandardsQuestions@ee.doe.gov.

Mr. Pete Cochran, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 586-4798. Email: Peter.Cochran@hq.doe.gov.

For further information on how to submit a comment, or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
 - A. Authority
 - B. Background
- II. Request for Information
 - A. Consumer Choice in Appliances
 - B. Reduction of Regulatory Burden
 - C. Promoting Market Competition and Innovation
 - D. Analysis of Costs and Benefits
 - E. Public Comment and Review
 - F. Prioritizing Accuracy in Environmental Analyses
 - G. Other Topics
 - 1. Satisfaction of Statutory Criteria
 - 2. Rulemaking Timelines
 - 3. Mandatory Application of Process Rule
- III. Public Participation
- IV. Approval of the Office of the Secretary

I. Introduction

On January 20, 2025, the President issued Executive Order 14154, “Unleashing American Energy” (E.O. 14154). 90 FR 8353 (Jan. 29, 2025). That order stated the policy of the United States with regard to energy production and management. Among the stated elements of this policy are to safeguard the American people's freedom to choose from a variety of goods and appliances, including but not limited to lightbulbs, dishwashers, washing machines, gas stoves, water heaters, toilets, and shower heads, and to promote market competition and innovation within the manufacturing and appliance industries; to ensure that the global effects of a rule, regulation, or action shall, whenever

evaluated, be reported separately from its domestic costs and benefits, in order to promote sound regulatory decision making and prioritize the interests of the American people; and to guarantee that all executive departments and agencies (agencies) provide opportunity for public comment and rigorous, peer-reviewed scientific analysis. The Executive order also specifies policies for prioritizing accuracy in environmental analyses, specifically instructing that for Federal regulatory processes, “all agencies shall adhere to only the relevant legislated requirements for environmental considerations, and any considerations beyond those requirements are eliminated.” The Executive order also provides instructions regarding consideration of greenhouse gas emissions and the “social cost of carbon.”

To implement E.O. 14154, the Department, among other actions, is evaluating existing policy regarding its approach for consideration of new or amended energy conservation standards and test procedures for consumer products and certain commercial and industrial equipment. In this request for information (RFI), DOE is seeking public comment on how best to achieve the objectives enumerated in E.O. 14154, while continuing to satisfy the Department's statutorily-prescribed obligations. DOE intends to use the responses to this RFI in the development of revisions to the Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Certain Commercial/Industrial Equipment, codified at 10 CFR part 430, subpart C, appendix A, (“appendix A” or the Process Rule), which DOE generally uses to prescribe energy conservation standards and test procedures for both consumer products and commercial

equipment pursuant to the Energy Policy and Conservation Act of 1975, as amended (Pub. L. 94-163; 42 U.S.C. 6291, *et seq.*; “EPCA”).

In this RFI, DOE seeks comments and information on potential improvements to the Process Rule. In the paragraphs that follow, DOE lists issue areas on which it is particularly interested in receiving comments. DOE developed these issue areas based on E.O. 14154, feedback received in response to previous regulatory reform efforts related to the Process Rule, and on DOE's experience in promulgating standards using the procedures set out in the rule. In addition to the specific issues listed in this RFI, DOE welcomes comment on all other aspects of the Process Rule that interested parties believe could be improved or maintained. DOE intends to provide additional opportunities for public feedback if DOE moves forward to effectuate improvements to the Process Rule.

A. Authority

Title III, parts B¹ and C² of EPCA , Public Law 94-163 (42 U.S.C. 6291-6317, as codified), established the Energy Conservation Program for Consumer Products and Certain Industrial Equipment.³ Under EPCA, DOE's energy conservation program for covered products consists essentially of four parts: (1) testing; (2) certification and enforcement procedures; (3) establishment of Federal energy conservation standards; and (4) labeling. Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, water use (as applicable), or

¹ For editorial reasons, upon codification in the U.S. Code, part B was redesignated part A.

² Part C was added by Public Law 95-619, title IV, § 441(a). For editorial reasons, upon codification in the U.S. Code, part C was redesignated part A-1.

³ All references to EPCA in this document refer to the statute as amended through Energy Act of 2020, Public Law 116-260 (Dec. 27, 2020), which reflects the last statutory amendments that impact parts A and A-1 of EPCA.

estimated annual operating cost of each covered product and covered equipment during a representative average use cycle or period of use. (42 U.S.C. 6293; 42 U.S.C. 6314)

Manufacturers of covered products and covered equipment must use the prescribed DOE test procedure when certifying to DOE that their products and equipment comply with the applicable energy conservation standards adopted under EPCA and when making any other representations to the public regarding the energy use or efficiency of those products. (42 U.S.C. 6293(c); 42 U.S.C. 6295(s); 42 U.S.C. 6314(a); and 42 U.S.C. 6316(a)) Similarly, DOE must use these test procedures to determine whether the products comply with energy conservation standards adopted pursuant to EPCA. (42 U.S.C. 6295(s); 42 U.S.C. 6316(a))

In addition, pursuant to EPCA, any new or amended energy conservation standard for covered products (and at least certain types of equipment) must be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A); 42 U.S.C. 6316(a)) In determining whether a standard is economically justified, EPCA requires DOE, to the greatest extent practicable, to consider the following seven factors: (1) The economic impact of the standard on the manufacturers and consumers; (2) the savings in operating costs, throughout the estimated average life of the products (*i.e.*, life-cycle costs), compared with any increase in the price of, or in the initial charges for, or operating and maintaining expenses of, the products which are likely to result from the imposition of the standard; (3) the total projected amount of energy, or as applicable, water, savings likely to result directly from the standard; (4) any lessening of the utility or the performance of the products likely to result from the standard; (5) the impact of any

lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard; (6) the need for national energy and water conservation; and (7) other factors DOE finds relevant. (42 U.S.C. 6295(o)(2)(B)(i)) Furthermore, the new or amended standard must result in a significant conservation of energy (42 U.S.C. 6295(o)(3)(B); 42 U.S.C. 6313(a)(6); and 42 U.S.C. 6316(a)) and comply with any other applicable statutory provisions.

B. Background

In July of 1996, DOE published a final rule in the *Federal Register* that codified DOE's "Procedures, Interpretations and Policies for Consideration of New or Revised Energy Conservation Standards for Consumer Products" at appendix A. 61 FR 36974 (July 15, 1996) (1996 Final Rule). The goal of the Process Rule was to increase transparency by elaborating on the procedures, interpretations, and policies that would guide the Department in establishing new or revised energy conservation standards for consumer products.

On February 14, 2020, DOE published a final rule in the *Federal Register* (February 2020 Final Rule) that significantly revised the Process Rule. 85 FR 8626. This rule made the specified rulemaking procedures binding on DOE and revised certain provisions to bring consistency with existing statutory requirements. Other changes included expanding early opportunities for public input on the Appliance Program's priority setting and rulemaking activities, setting a significant energy savings threshold for updating standards, establishing a 180-day window between test procedure final rules and standards proposals, specified DOE's approach to adoption of industry test standards in its test procedures, and delineating procedures for rulemaking under the separate direct

final rule and negotiated rulemaking authorities. DOE also published a companion final rule in the *Federal Register* on August 19, 2020 (August 2020 Final Rule), that clarified how DOE would conduct a comparative analysis across all trial standard levels when determining whether a particular trial standard level was economically justified. 85 FR 50937.

Subsequently, DOE published further amendments to the Process Rule, some of which reversed or modified amendments made in the February 2020 and August 2020 Final Rules. These amendments, among other things, reverted the Process Rule back to the non-binding status of the 1996 Final Rule and removed the significant energy savings threshold. DOE published the first of these final rules in the *Federal Register* on December 13, 2021 (December 2021 Final Rule). 86 FR 70892. DOE published a second final rule with additional amendments to the Process Rule in the *Federal Register* on April 8, 2024 (April 2024 Final Rule). 89 FR 24340.

The following paragraphs summarize the origins and historical amendments to the individual sections of the Process Rule.⁴

(1) *Objectives* - This section was established in the 1996 Final Rule and lays out the overall purpose of the Process Rule and its specific provisions. The February 2020 Final Rule made various editorial changes to this section.

(2) *Scope* - This section was established in the 1996 Final Rule and identifies the types of rulemakings to which the Process Rule applies. This section was amended in the

⁴ The full text of the current Process Rule is available at <https://www.ecfr.gov/current/title-10/chapter-II/subchapter-D/part-430/subpart-C/appendix-Appendix%20A%20to%20Subpart%20C%20of%20Part%20430>.

February 2020 Final Rule to clarify that the Process Rule applies to both consumer products and commercial and industrial equipment.

(3) *Application* - This section was added in the February 2020 Final Rule and specified that the Process Rule would be binding on DOE. This section was subsequently amended in the December 2021 Final Rule to state that DOE has discretion to depart from the general guidance in appendix A when it deems necessary or appropriate, with the stipulation that DOE will provide interested parties with notice of the deviation and an explanation.

(4) *Setting Priorities for Rulemaking Activity* - This section was established in the 1996 Final Rule and identifies the factors that DOE applies when determining its regulatory plans and formulation of inputs for the annual Regulatory Agenda. This section was amended in the February 2020 Final Rule to specify that DOE would offer the opportunity to provide input on prioritization of rulemakings through a request for comment as DOE begins preparation of its Regulatory Agenda each spring.

(5) *Coverage Determination Rulemakings* - This section was established in the February 2020 Final Rule and describes the process DOE would follow to establish coverage for consumer products and industrial equipment. Subsequent amendments in the December 2021 Final Rule and April 2024 Final Rule allow DOE to seek early stakeholder input through preliminary rulemaking documents prior to a proposed coverage determination, removed a previous requirement that final coverage determinations be published prior to the initiation of any test procedure or energy conservation standard rulemaking and at least 180 days prior to publication of a test procedure NOPR, and removed the previously required 180-day period between

finalization of DOE test procedures and issuance of a NOPR proposing new or amended energy conservation standards.

(6) *Process for Developing Energy Conservation Standards* - This section was established in the 1996 Final Rule and describes the process to be used in developing energy conservation standards for covered products and equipment other than those covered equipment subject to ASHRAE/IES Standard 90.1. The February 2020 Final Rule created an "early assessment" process for seeking stakeholder input prior to commencing a rule and committed to an initial rulemaking stage prior to a proposed rule (e.g., a framework document or preliminary analysis). This rule also established a threshold of "significant energy savings" of 0.3 quads or 10 percent site savings over 30 years. Subsequent amendments in the December 2021 and April 2024 Final Rules removed the energy savings threshold requirement and the requirement for a separate early assessment request for information (RFI) but clarified that DOE will issue one or more documents during the pre-NOPR stage of a rulemaking.

(7) *Policies on Selection of Standards* - This section was established in the 1996 Final Rule and describes Department policies concerning the selection of new or revised standards. DOE employs a walk-down process to ensure that DOE meets the statutory mandate that any new or amended standard is designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified (42 U.S.C. 6295(o)(2)(A); 42 U.S.C. 6316(a)). The February 2020 Final Rule made minor amendments to align with revisions elsewhere in in the Process Rule, while the August 2020 Final Rule added a clarification that DOE would conduct a comparative analysis across all trial standard levels when determining whether a level was

economically justified. The December 2021 Final Rule amended this section to remove the requirement for a comparative analysis.

(8) *Test Procedures* - This section was established in the original 1996 Final Rule and describes the process by which DOE would establish test procedures for covered products and equipment. The February 2020 Final Rule added an early assessment process for test procedures and generally committed that DOE would adopt consensus industry test procedures unless not consistent with EPCA. Consistent with other amendments in that rule, this section was also amended to require that DOE finalize a test procedure 180 days in advance of a standards proposal. The December 2021 Final Rule clarified that DOE may revise consensus industry test procedure standards for compliance, certification, and enforcement purposes, and revised application of the 180-day period between finalization of a test procedure and issuance of a standards proposal.

(9) *ASHRAE Equipment* - this section was created by the February 2020 Final Rule and describes the process DOE will follow for conducting rulemakings for equipment subject to the "ASHRAE trigger" provisions in EPCA that apply when ASHRAE Standard 90.1 is amended with respect to standards, test procedures, or design requirements applicable to such equipment. The April 2024 Final Rule added provisions to clarify application of the 6- and 7-year lookback provisions for periodic review of standards and test procedures for ASHRAE equipment.

(10) *Direct Final Rules* - This section was established in the February 2020 Final Rule and describes how DOE would comply with EPCA requirements specific to publication of direct final rules, including the Department's interpretation of the term "fairly representative of relevant points of view" as it applies to interested stakeholders.

The December 2021 Final Rule amended this section to clarify that DOE will implement its direct final rule authority under EPCA on a case-by-case basis including its evaluation of the meaning of “fairly representative”, subject to the circumstances of a particular rulemaking.

(11) *Principles for Distinguishing Between Effective and Compliance Dates* - This section was established in the February 2020 Final Rule and provides clarification as to the distinction between the effective and compliance dates of a final rule. This section has not been amended since its original establishment.

(12) *Principles for the Conduct of the Engineering Analysis* - This section was established in the 1996 Final Rule, and other than minor editorial changes, was not substantively amended in subsequent rulemakings.

(13) *Principles for the Analysis of Impacts on Manufacturers* - This section was established in the 1996 Final Rule, and other than minor editorial changes, was not substantively amended in subsequent rulemakings.

(14) *Principles for the Analysis of Impacts on Consumers* - This section was established in the 1996 Final Rule, and other than minor editorial changes, was not substantively amended in subsequent rulemakings.

(15) *Consideration of Non-Regulatory Approaches* - This section was established in the 1996 Final Rule and identifies how DOE will consider the effects of non-regulatory efforts by manufacturers, utilities, and other interested parties to produce substantial efficiency improvements. Revisions in the February 2020 Final Rule removed a section discussing the Department's pursuit of voluntary programs where it appears that highly

efficient products can obtain a significant market share but less efficient products cannot be eliminated altogether because, for instance, of unacceptable adverse impacts on a significant subgroup of consumers.

(16) *Cross-Cutting Analytical Assumptions* - This section was established in the 1996 Final Rule and sets out the sources and general principles that DOE expects to continue relying upon in selecting values for certain cross-cutting analytical assumptions. This section was amended in the February 2020 Final Rule to specify that DOE would use two time lengths - 30 years and another time length that is specific to the standard being considered such as the useful lifetime of the product under consideration, as well as a 9-year regulatory time line as a sensitivity case. That rule also specified that DOE will endeavor to use robust price forecasting techniques in projecting future prices of products.

II. Request for Information

As stated earlier in this document, the President has recently issued E.O. 14154, which includes topics relevant to DOE's process for establishing energy conservation standards and test procedures. The following sections request comment on how the DOE Process Rule may be updated for consistency with this Executive order and in light of other recent developments. The following sections also request comment and information on additional topics related to the Process Rule.

DOE also notes that, although not specifically addressed in this RFI, DOE intends to more closely review the assumptions, models, and methodologies used in setting energy conservation standards for consumer products and equipment. Many of these topics were addressed in a report issued by The National Academies of Sciences,

Engineering, and Medicine (‘NAS’) in 2021⁵ and have been the subject of comments submitted by stakeholders in recent energy conservation standards rulemakings. The recommendations in the NAS report as well as other conceptual considerations will be considered by DOE in a separate RFI. This follow-up RFI will more specifically request stakeholder comments on those topics.

A. Consumer Choice in Appliances

Among the policies of the United States stated in section 2(f) of E.O. 14154 is "to safeguard the American people's freedom to choose from a variety of goods and appliances." 90 FR 8353, 8353 (Jan. 29, 2025).

There are several provisions in EPCA that relate to preserving consumer choice when it comes to appliances and other covered products and equipment. For example, when determining whether a standard is economically justified, the Secretary is required by EPCA to determine whether the benefits of the standards exceed the burdens by considering, among other factors, any lessening of the utility or the performance of the covered products likely to result from the standard. (42 U.S.C. 6295(o)(2)(B)(i)(IV); 42 U.S.C. 6313(a)(6)(B)(ii)(IV); 42 U.S.C. 6316(a)) These provisions recognize that restricting consumer choice by eliminating features or reducing performance of appliances and other covered products/equipment is a burden on consumers.

⁵ National Academies of Sciences, Engineering, and Medicine. 2021. Review of Methods Used by the U.S. Department of Energy in Setting Appliance and Equipment Standards. Washington, DC: The National Academies Press. Available at <https://nap.nationalacademies.org/catalog/25992/review-of-methods-used-by-the-us-department-of-energy-in-setting-appliance-and-equipment-standards> (last accessed February 27, 2025).

Similarly, EPCA also prohibits the Secretary from amending or establishing a new energy conservation standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States at the time of the Secretary's finding. (42 U.S.C. 6295(o)(4); 42 U.S.C. 6313(a)(6)(B)(iii)(II)(aa); 42 U.S.C. 6316(a))

The Process Rule expands on how DOE applies these statutory requirements when conducting an energy conservation standards rulemaking. Sections 7(b) and 6(a)(3)(iii) of the Process Rule specify that after DOE has determined that particular technology options for improving efficiency are technologically feasible, it further evaluates each technology option in light of multiple screening criteria, including the impact on product utility and the safety of a technology. If a technology is determined to have significant adverse impact on the utility of the product/equipment to subgroups of consumers, or result in the unavailability of any covered product type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as products generally available in the U.S. at the time, it will not be considered further. If it is determined that a technology will have significant adverse impacts on health or safety, it will not be considered further.

The Process Rule currently specifies in section 14(a) that DOE will consider at the earliest stages of the development of a standard whether particular design options will lessen the utility of the covered products/equipment to the consumer. Furthermore, section 14(b) of the Process Rule also states that DOE will not promulgate a standard if it

concludes that it would likely result in the unavailability of any covered product/equipment type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as products/equipment generally available in the United States at the time.

DOE requests comment on whether and how the Process Rule should be updated to provide additional detail on how DOE's rulemaking process ensures protection of consumer choice in prescribing regulations for covered consumer products and commercial/industrial equipment as directed by EPCA. For example, while the current Process Rule discusses screening out technologies that would result in the unavailability of appliances with certain features or performance characteristics, the Process Rule does not provide examples or guidance on the types of features or performances characteristics that are relevant to consumer choice and should be preserved. DOE recognizes that consumers and manufacturers can often make decisions based on aspects of a product that are less tangible to efficiency such as color, internal arrangements (*e.g.*, shelves and bins), or other add-ons that consumers and manufacturers value or market, respectively. To the extent any of these attributes are relevant to DOE's analysis of standards, DOE requests comments on ways to better analyze these consumer and business behavior decisions in a process rule or subsequent methodological RFI. In DOE's subsequent methodological RFI, DOE will request further input on the DOE's assumptions and analytic approach to estimating consumer choice, consumer welfare, and product availability.

B. Reduction of Regulatory Burden

On January 31, 2025, the President issued Executive Order 14192, “Unleashing Prosperity through Deregulation.” 90 FR 9065 (Feb. 6, 2025). In section 2 of that E.O., the President stated that it is the policy of the executive branch to be prudent and financially responsible in the expenditure of funds, from both public and private sources, and to alleviate unnecessary regulatory burdens placed on the American people.

In an effort to address the requirements of E.O. 14192, DOE is examining its processes for establishing energy conservation standards and test procedures for covered products and equipment to identify opportunities for potential burden reduction. As an example, the revisions to the Process Rule in the February 2020 Final Rule DOE specified a threshold value of energy savings for determining whether the energy savings of a proposed energy conservation standard are significant enough to justify a new or amended standard. 85 FR 8626, 8655 (Feb. 14, 2020). As stated in that rule, the purpose of that step was to ensure that DOE will promulgate those standards that are most likely to confer substantial benefits to consumers and the Nation and eliminate from further consideration those potential standards that are projected to result in substantially lower energy savings below those generated under the relevant threshold. *Id.* at 85 FR 8656.

DOE requests comment and information on whether any changes to the Process Rule should be made, consistent with statutory requirements, to reduce the regulatory burden associated with test procedure and/or energy conservation standards rulemakings. DOE also broadly requests comment and information on costs, benefits, and burdens that are difficult to quantify (*e.g.*, non-engineering costs and benefits, considerations such as convenience, cleaning or changing of parts, replacement or second-hand markets, and reduced or increased production/sales volumes). DOE welcomes specific

recommendations and suggestions related to burden reduction including ways to measure and reduce overlapping regulations that may impact firms who manufacture similar or complementary goods. These comments and recommendations may also inform DOE's methodological RFI.

C. Promoting Market Competition and Innovation

Under section 2(f), E.O. 14154 also states that it is the policy of the United States to "promote market competition and innovation within the manufacturing and appliance industries." 90 FR 8353, 8353 (Jan. 29, 2025).

Certain statutory provisions of EPCA relate to this topic. Specifically, when prescribing new or amended standards, DOE is directed in EPCA to consider the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from a standard. (42 U.S.C. 6295(o)(2)(B)(i)(V); 42 U.S.C. 6313(a)(6)(B)(ii)(V); 42 U.S.C. 6316(a)) EPCA also directs the Attorney General to determine the impact, if any, of any lessening of competition likely to result from a standard and to transmit such determination to the Secretary no later than 60 days after the publication of a proposed rule, together with an analysis of the nature and extent of such impact. (42 U.S.C. 6295(o)(2)(B)(ii); 42 U.S.C. 6316(a))

The current Process Rule has provisions which also seek to address concerns related to market competition and innovation. Under sections 6(a)(3)(iii) and 7(b) of the Process Rule, DOE considers the practicability to manufacture, install, and service and unique pathway-proprietary technologies when determining whether a design option for improving efficiency will receive any further consideration in the rulemaking analysis. If

it is determined that mass production of a technology in commercial products and reliable installation and servicing of the technology could not be achieved on the scale necessary to serve the relevant market at the time of the compliance date of the standard, then that technology will not be considered further. If a technology has proprietary protection and represents a unique pathway to achieving a given efficiency level, it will not be considered further, due to the potential for monopolistic concerns.

Among the factors listed in section 6(a)(5)(iv) in the Process Rule that DOE considers when selecting a proposed standard are impacts on manufacturers and competition, including industry concentration analysis. The analysis of manufacturer impacts includes: estimated impacts on cash flow; assessment of impacts on manufacturers of specific categories of products/equipment and small manufacturers; assessment of impacts on manufacturers of multiple product-specific Federal regulatory requirements, including efficiency standards for other products and regulations of other agencies; and impacts on manufacturing capacity, employment, and capital investment.

As required by EPCA, section 14(c) of the Process Rules provides that DOE will solicit the views of the Department of Justice on any lessening of competition likely to result from a proposed standard and gives the views provided full consideration in assessing economic justification of a proposed standard. In addition, DOE may consult with the Department of Justice at earlier stages in the standards development process to seek its preliminary views on competitive impacts. When selecting a final standard under section 7(f) of the Process Rule, DOE considers any analysis by the Department of Justice concerning impacts on competition of the proposed standard. Section 15 of the Process Rule also states that DOE intends to consider the likely effects of non-regulatory

initiatives on competition and manufacturers, among other factors, and this information will be used in assessing the likely incremental impacts of establishing or revising standards, in assessing—where possible—appropriate compliance dates for new or revised standards, and in considering DOE support of non-regulatory initiatives.

DOE requests comment on whether and how the Process Rule should be updated to provide additional detail on how DOE’s rulemaking process can promote market competition and innovation within the manufacturing and appliance industries and on DOE’s historical analysis of potential impacts of any lessening of competition under 42 U.S.C. 6295(o)(2)(B)(i)(V). DOE requests comment in particular from small business manufacturers who could be uniquely impacted by energy efficiency standards. DOE also requests comment from manufacturers that manufacturer home appliances and other regulated consumer and commercial products in the United States. In the methodological RFI, DOE also anticipates requesting comment on how to analyze effects on competition including the agency’s use of the Herfindahl-Hirschman index (HHI) on a rule-by-rule basis for relevant markets as well as on the cumulative market effects.

D. Analysis of Costs and Benefits

Section 2(g) of E.O. 14154 establishes that it is the policy of the United States to ensure that the global effects of a rule, regulation, or action shall, whenever evaluated, be reported separately from its domestic costs and benefits, in order to promote sound regulatory decision making and prioritize the interests of the American people. 90 FR 8353, 8353-8354 (Jan. 29, 2025).

The current Process Rule has provisions relevant to this topic. Among the factors listed in section 6(a)(5)(iv) of the Process Rule that DOE considers when selecting a proposed standard are the national energy, economic, and employment impacts of the proposed standard. This analysis includes estimated energy savings by fuel type; estimated net present value of benefits to all consumers; sensitivity analyses using high and low discount rates reflecting both private transactions and social discount rates and high and low energy price forecasts; and estimates of the direct and indirect impacts on employment by appliance manufacturers, relevant service industries, energy suppliers, suppliers of complementary and substitution products, and the economy in general.

As stated in section 6(a)(5)(iv) of the Process Rule, DOE also analyzes the private impacts on American consumers when selecting a proposed standard, which includes: estimated private energy savings impacts on consumers based on regional average energy prices and energy usage; assessments of the variability of impacts on subgroups of consumers based on major regional differences in usage or energy prices and significant variations in installation costs or performance; consideration of changes to product utility, changes to purchase rate and/or costs of products, and other impacts of likely concern to all or some consumers, based to the extent practicable on direct input from consumers; estimated life-cycle cost with sensitivity analysis; and consideration of the increased first cost to consumers and the time required for energy cost savings to pay back these first costs. Section 14(e) of the Process Rule further describes the principles for the analysis of impacts on consumers regarding payback period and first cost, stating that DOE will consider the life-cycle cost, payback period, and cost of conserved energy to evaluate the savings in operating expenses relative to increases in purchase price, and that DOE will

assess likely impacts on low-income households, product/equipment sales, and fuel switching, as appropriate.

In addition, section 2(h) of E.O. 14154 states that it is the policy of the United States to guarantee that all executive departments and agencies (agencies) provide opportunity for public comment and rigorous, peer-reviewed scientific analysis. 90 FR 8353, 8354 (Jan. 29, 2025).

The current Process Rule contains provisions consistent with this objective of E.O. 14154. One of the objectives of the Process Rule is to use transparent and robust analytical methods. The Department seeks to use qualitative and quantitative analytical methods that are fully documented for the public and that produce results that can be explained and reproduced, so that the analytical underpinnings for policy decisions on standards are as sound and well-accepted as possible. *See* section 1(f) of the Process Rule. The Process Rule also directs DOE to document the analytical approaches and tools used to perform its analysis and provide interested parties an opportunity to review the results. *See* section 6 of the Process Rule.

DOE requests comment on whether and how the Process Rule should be updated to provide additional detail on how DOE's rulemaking process to ensure that the global effects of an energy conservation standard be reported separately from its domestic costs and benefits, in order to promote sound regulatory decision making and prioritize the interests of the American people. DOE requests comment and information on how to assess the effect of energy conservation rules on consumption of complementary goods (*e.g.*, laundry detergent, stain removers, fabric softeners for clothes washers) that may

result from amended standards. DOE requests comment and information on hard to quantify effects, whether positive or negative, on the design or operation of covered products that could result from requirements to make them more efficient (*e.g.*, consumer user interfaces, changes to noise levels during operation). DOE also requests comment on the extent to which current the rulemaking process provides opportunity for rigorous, peer-reviewed scientific analysis and whether any improvements should be addressed in the Process Rule. These comments and information will inform not only DOE's forthcoming Process Rule proposal but also the forthcoming methodological RFI and DOE's wider effort related to updating DOE's TSD analysis.

E. Public Comment and Review

With regard to the specific requirement in section 2(h) of E.O. 14154 requiring agencies to provide adequate opportunity for public comment, DOE is directed by EPCA to provide opportunities for public comment throughout the rulemaking process under a specific set of timelines. (42 U.S.C. 6295(m)(2)(B); 42 U.S.C. 6313(a)(6)(C)(ii)(II); 42 U.S.C. 6316(a)) These statutory requirements are incorporated in the Process Rule. *See*, for example, sections 6(a)(6), 6(b)(2) and (3), and 6(c) of the Process Rule for the provisions applicable to the energy conservation standards rulemaking process. The Process Rule contains similar provisions applicable to coverage determinations and test procedures. While EPCA prescribes required comment periods for the proposal stages of DOE's rulemakings, the Process Rule specifies additional opportunities for public input early in the rulemaking process so that the initiation and direction of rulemakings is informed by comment from interested parties. *See* sections 6(a)(6) and 8(a)(6) of the Process Rule.

DOE makes rulemaking materials available for public review. The Process Rule further specifies that supporting documentation for rulemaking activities will be made available in the docket, with a discussion of analyses provided in technical support documents, for applicable rulemaking stages. *See, e.g.*, sections 5(a), 6(a)(1), 6(a)(4), and 6(b)(1) of the Process Rule.

DOE requests comment on whether and how the Process Rule should be amended to modify public comment and review procedures for rulemakings, consistent with EPCA's requirements.

F. Prioritizing Accuracy in Environmental Analyses

Section 6 of E.O. 14154 states that, “all agencies shall adhere to only the relevant legislated requirements for environmental considerations and any considerations beyond these requirements are eliminated.” In fulfilling all such requirements, agencies shall strictly use the most robust methodologies of assessment at their disposal and shall not use methodologies that are arbitrary or ideologically motivated. E.O. 14154 disbands the Interagency Working Group on the Social Cost of Greenhouse Gases (IWG) and withdraws any guidance, instruction, recommendation, or documents issued by the IWG. The E.O. also directs the Administrator of the EPA to issue guidance that considers eliminating the “social cost of carbon” calculation from any Federal permitting or regulatory decisions, noting that the calculation of the “social cost of carbon” is marked by logical deficiencies, a poor basis in empirical science, politicization, and the absence of a foundation in legislation. 90 FR 8353, 8356 (Jan. 29, 2025).

Prior to the issuance of this new guidance from EPA, E.O. 14154 directs agencies to ensure estimates to assess the value of changes in greenhouse gas emissions resulting from agency actions, including with respect to the consideration of domestic versus international effects and evaluating appropriate discount rates, are, to the extent permitted by law, consistent with the guidance contained in OMB Circular A-4 of September 17, 2003 (Regulatory Analysis). Furthermore, the head of each agency shall, as appropriate and consistent with applicable law, initiate a process to make such changes to any rule, regulation, policy or action as may be necessary to ensure consistency with the Regulatory Analysis. Finally, the Administrator of the EPA, in collaboration with the heads of any other relevant agencies, shall submit joint recommendations to the Director of OMB on the legality and continuing applicability of the Administrator's findings, "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act," Final Rule, 74 FR 66496 (Dec. 15, 2009). 90 FR 8353, 8356-8357 (Jan. 29, 2025).

Related to this topic, section 16(h) of the Process Rule provides cross-cutting analytical assumptions for analyzing environmental impacts of rulemakings. DOE estimates the cumulative emission reductions of carbon dioxide, sulfur dioxide, nitrogen oxides, methane, nitrous oxides, and mercury likely to be avoided by candidate/trial standard levels. This analysis estimates both power sector and site combustion emission reductions and the emissions impact due to "upstream activities" in the fuel production chain. Further, the Process Rule states that DOE estimates the value of carbon dioxide and nitrous oxides emissions changes consistent with the guidance contained in OMB Circular A-4 of September 17, 2003 (Regulatory Analysis).

DOE requests comment on how the Process Rule should be updated to modify environmental considerations. In the methodological RFI, DOE anticipates requesting further comment on the DOE's general methodology and assumptions in estimating direct and indirect impacts arising out of new or amended energy conservation standards. These methodological considerations may also include further requests for comment regarding DOE's approach to estimating greenhouse gas emission reductions and the monetization of those emissions, when considering new or amended energy conservation standards.

G. Other Topics

1. Satisfaction of Statutory Criteria

The Process Rule currently specifies the policies and procedures DOE follows in determining that a rulemaking satisfies the applicable statutory requirements of EPCA. Specifically, as required under 42 U.S.C. 6295(o)(2)(A), any new or revised standard must be designed to achieve the maximum improvement in energy efficiency that is determined to be both technologically feasible and economically justified (*see also* 42 U.S.C. 6313(a)(6)(A)-(C); 42 U.S.C. 6316(a)). Sections 6 and 7 of the Process Rule explain the process that DOE follows when conducting an energy conservation standards rulemaking. Section 6(a)(2) of the Process Rule specifies that DOE will solicit information at a pre-NOPR stage to determine whether a rulemaking is likely to satisfy all statutory criteria, and section 7(e)(2) of the Process Rule provides the fundamental statutory policies concerning the selection of standards as follows:

(i) A trial standard level will not be proposed or promulgated if the Department determines that it is not both technologically feasible and economically justified. (42

U.S.C. 6295(o)(2)(A) and 42 U.S.C. 6295(o)(3)(B)) For a trial standard level to be economically justified, the Secretary must determine that the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering the factors listed in 42 U.S.C. 6295(o)(2)(B)(i). A standard level is subject to a rebuttable presumption that it is economically justified if the payback period is three years or less. (42 U.S.C. 6295(o)(2)(B)(iii))

(ii) If the Department determines that interested persons have established by a preponderance of the evidence that a standard level is likely to result in the unavailability in the United States of any covered product/equipment type (or class) with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as products generally available in the U.S. at the time of the determination, then that standard level will not be proposed. (42 U.S.C. 6295(o)(4))

(iii) If the Department determines that a standard level would not result in significant conservation of energy, that standard level will not be proposed. (42 U.S.C. 6295(o)(3)(B))

DOE requests comment on whether and how the Process Rule should be updated to provide additional detail on how DOE's rulemaking process satisfies the statutory requirements for establishing new or amended energy conservation standards.

For test procedure rulemakings, 42 U.S.C. 6293(b)(3) requires that any new or amended test procedures shall be reasonably designed to produce test results which measure energy efficiency, energy use, water use (in the case of showerheads, faucets, water closets and urinals), or estimated annual operating cost of a covered product during a representative average use cycle or period of use, and shall not be unduly burdensome

to conduct (*see also* 42 U.S.C. 6314(a)(2)-(3)). Section 8 of the Process Rule explains the process that DOE follows when conducting a test procedure rulemaking consistent with DOE's statutory authority. Similar to the Process Rule procedures for energy conservation standards, section 8(a)(2) of the Process Rule states that DOE will solicit information at a pre-NOPR stage to determine whether a test procedure rulemaking is likely to satisfy the statutory criteria.

DOE requests comment on whether and how the Process Rule should be updated to provide additional detail on how DOE's rulemaking process satisfies the statutory requirements for establishing new or amended test procedures. DOE's methodological RFI may request comment on the assumptions and analytics associated with test procedures, and welcomes comments on whether these test procedure related methodologies should be included in that RFI.

2. Rulemaking Timelines

One objective of the Process Rule is to increase predictability of the rulemaking timetable (*see* section 1(b)). The Process Rule accomplishes this objective by specifying the factors DOE will consider in prioritizing rulemaking activities. Additionally, the Process Rule specifies the steps DOE will follow when conducting a rulemaking, which includes the different stages of the rulemakings and any corresponding comment periods. The Process Rule also specifies the timing of test procedure rulemakings relative to energy conservation standards rulemakings – generally requiring that new or amended test procedures that impact measured energy use or efficiency will be finalized at least 180 days prior to the close of the comment period for either an energy conservation

standards notice of proposed rulemaking or notice of proposed determination that standards do not need to be amended. See section 8(e)(1).

DOE requests comment and information on whether and how the Process Rule should be amended to specify rulemaking prioritization and timelines, consistent with EPCA's requirements.

3. Mandatory Application of Process Rule

In the February 2020 Final Rule, DOE had amended the Process Rule to specifically make its provisions binding on DOE, reasoning that this would increase public confidence in the fairness and predictability of the rulemaking process. 85 FR 8626, 8634 (Feb. 14, 2020). DOE subsequently amended these provisions in the December 2021 Final Rule to make the Process Rule again non-binding on the Department. 86 FR 70892, 70896-70901 (Dec. 13, 2021). However, DOE is interested in receiving comment on whether reintroducing a requirement that the Process Rule provisions be mandatory would better enable the Department to comply with its obligations under statute and applicable Executive Orders.

III. Public Participation

DOE will accept comments, data, and information regarding this request for information no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The *www.regulations.gov* webpage will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not

be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (“faxes”) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter

with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked “confidential” including all the information believed to be confidential, and one copy of the document marked “non-confidential” with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this request for information.

Signing Authority

This document of the Department of Energy was signed on April 8, 2025, by Louis Hrkman, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register,

the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on April 9, 2025.

Treena V. Garrett,

Federal Register Liaison Officer,

U.S. Department of Energy.

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