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Subject: CEC Draft RFI Response
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Attachments: [DOE RFI - Final Draft \(7-7-17\).docx](#)

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Good afternoon/evening,

Attached is our draft response to DOE's Regulatory Burden RFI. Please let us know if you have any comments or suggestions.

Thanks and have a good weekend-
Kristen

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July 14, 2017

Daniel Cohen
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Washington, DC 20585
via ***www.regulations.gov***

RE: REGULATORY BURDEN RFI

Dear Mr. Cohen:

The California Energy Commission thanks you for the opportunity to provide comments and suggestions relating to the U.S. Department of Energy's (DOE's) efforts to implement Executive Order 13771, "Reducing Regulation and Controlling Regulatory Costs."¹ The DOE has many regulations necessary to support its various energy programs, including power plant siting, energy research, development, and deployment, fossil fuel development, low-income weatherization, and renewable energy production. While each of these programs is important to the interests of California, the Energy Commission writes this letter to support the continuation of DOE's appliance efficiency program specifically.

Appliance efficiency standards have served as one of the nation's most effective policies for improving energy efficiency. Federal appliance standards adopted or updated in 2016 will save consumers almost \$75 billion on their utility bills and avoid the need to generate 1.4 trillion kilowatt-hours of electricity over the next 30 years.² In addition, these standards will eliminate nearly 800 million metric tons of climate-warming carbon dioxide emissions. By 2030, cumulative operating cost savings from all appliance and building standards in effect since 1987 will reach nearly \$2 trillion.³ Some examples of recently finalized federal standards that have exceptionally large savings include: battery chargers (\$600 million to \$1.2 billion on products shipped from 2018-2047), dedicated purpose pool pumps (\$11 billion to \$24 billion on products shipped between 2021-2050), and commercial packaged air conditioners and heat pumps (sometimes also referred to as "roof top units") (\$15.2 billion to \$50 billion on products shipped between 2018-2048). Savings from energy efficiency standards have also helped to create jobs and other economic benefits. A 2011 report from the

¹ 82 Fed. Reg. 24582 (May 30, 2017).

² <https://www.nrdc.org/experts/lauren-urbanek/2016-efficiency-standards-create-75-billion-savings>

³ <https://energy.gov/eere/buildings/appliance-and-equipment-standards-program>

American Council for an Energy-Efficient Economy (ACEEE) found that energy efficiency standards resulted in the creation of 340,000 jobs nationwide in 2010 with number increasing to 380,000 in 2030.⁴

Under the Energy Policy and Conservation Act of 1975 (EPCA) and its amendments, DOE is responsible for creating mandatory appliance efficiency standards to ensure that manufacturers build products that provide the maximum energy efficiency that is technologically feasible and economically justified.⁵ DOE is obligated to review and update the test procedures and standards established under EPCA on a regular basis to take advantage of new product innovations and ensure that test procedures remain technologically relevant and accurate.⁶ EPCA also prevents backsliding by prohibiting new or amended standards that either increase the maximum allowable energy use or decrease the minimum required energy efficiency of a covered product.⁷ EPCA's statutory obligations limit DOE's ability to repeal appliance efficiency standards while ensuring that DOE regularly updates its standards to achieve additional energy efficiency. The regular review provisions of EPCA are especially important for appliances where federal standards preempt state standards, since, under EPCA, states cannot update test procedures or regulations for preempted products to support state goals and policies but must instead rely on DOE to do so.

In addition to the standards themselves, a robust compliance and enforcement program is critical to ensuring that consumers receive the energy savings expected from the standards. This includes having manufacturers update and maintain data submitted to DOE's Compliance Certification Management System (CCMS), reviewing and spot-checking anomalous or misleading data for potential areas of noncompliance, spot-checking compliance through market surveillance and independent, third-party testing, rigorously investigating complaints, and imposing fines or seeking injunctions on manufacturers who have violated the standards or test procedures. This protects manufacturers who abide by the rules against unscrupulous manufacturers or importers, and ensures that consumers are getting the expected energy savings from the standards.

The Energy Commission provides specific information and responses to DOE's request for information below.

(1) How can DOE best promote meaningful regulatory cost reduction while achieving its regulatory objectives, and how can it best identify those rules that might be modified, streamlined, or repealed?

Appliance efficiency standards save consumers billions of dollars in electricity costs, both in terms of direct utility-bill savings and in avoided costs on energy infrastructure,

⁴ Gold, R. and S. Nadel. Appliance and Equipment Standards Jobs: A Moneymaker and Job Creator in all 50 States. ACEEE. May 2011

⁵ 42 U.S.C. §§ 6291 et seq., 6295(o)(2).

⁶ 42 U.S.C. §§ 6293(b) (test procedures reviewed every 7 years), 6295(m) (standards reviewed every 6 years).

⁷ 42 U.S.C. § 6295(o)(1).

such as new power plants and transmission, which would be needed to meet otherwise growing energy demand. These savings in turn have a positive effect on the economy, as consumers spend on other activities and goods, resulting in overall job growth, growth in gross state product, and modest increases in household income, with lower-income consumers benefitting slightly more than other households.⁸ Energy efficiency standards also reduce criteria pollutants and carbon dioxide emissions associated with power generation, resulting in quantifiable individual health benefits.⁹

Repealing these regulations would have a negative impact on both businesses and consumers, and is unlawful. Businesses and consumers would see an increase in their electricity bills due to less efficient appliances, and repealing the standards would increase energy consumption. An increase in energy consumption would have two negative effects, first in increasing carbon dioxide emissions associated with power generation, harming the environment and contributing to climate change, and second in requiring the construction of new, expensive power plants and associated infrastructure to meet increasing demand, costing utility ratepayers significant money.

It is also unlawful for DOE to repeal appliance efficiency standards. EPCA prohibits DOE from prescribing any amended standard “which increases the maximum allowable energy use . . . or decreases the minimum required energy efficiency, of a covered product.” These “anti-backsliding” provisions provide the necessary certainty for energy markets to consider energy efficiency as part of system planning as well as for manufacturers designing product lines and marketing materials to meet the applicable standards.

(2) What factors should DOE consider in selecting and prioritizing rules and reporting requirements for reform?

When selecting rules to reform, DOE should consider the following four factors and minimize or avoid reform to rules that have the following characteristics:

Statutory Obligations: DOE is required under EPCA to regularly review and update appliance efficiency regulations, making existing standards an inappropriate target for reform or repeal. In addition, DOE has obligations under EPCA to set new standards for certain categories of appliances by specified deadlines, such as standards for uninterruptible power supplies.

Savings to Consumers: Appliance efficiency regulations have saved consumers billions of dollars on electricity costs and have a positive macroeconomic impact due in part to these utility-bill savings. Attempts to roll back these savings would conversely have a negative economic impact and should therefore be avoided.

⁸ See, e.g., Roland-Holst, David, Samuel Evans, Cecilia Han Springer, Tessa Emmer. 2016. Standardized Regulatory Impact Assessment: Computers, Computer Monitors, and Signage Displays. California Energy Commission: CEC-400-2016-008, available at http://docketpublic.energy.ca.gov/PublicDocuments/16-AAER-02/TN212998_20160826T150708_Revised_SRIA.pdf.

⁹ See id. at 20-21.

Energy Savings: Appliance efficiency regulations have allowed California's per capita electricity use to remain flat over the last 40 years while the rest of the country's use continues to rise. These energy-saving benefits, when captured through national efficiency standards, can be extended to other states and aid in reducing the costs associated with electricity generation.

Risk/ease of noncompliance: Appliance efficiency regulations include reporting requirements to ensure that manufacturers are complying with the applicable standards. This is because it is nearly impossible for an end-use consumer to know whether a product meets the standards or not, as the information regarding energy performance for many appliances is not easily accessible elsewhere. This risk of noncompliance justifies the relatively modest reporting requirements for manufacturers whose products must comply with the standards.

(3) How can DOE best obtain and consider accurate, objective information and data about the costs, burdens, and benefits of existing regulations? Are there existing sources of data DOE can use to evaluate the post-promulgation effects of regulations over time? We invite interested parties to provide data that may be in their possession that documents the costs, burdens, and benefits of existing requirements.

Utilities that participate in DOE rulemakings often conduct evaluation, monitoring, and verification (EMV) of the program costs and benefits. For example, the California investor-owned utilities (IOUs) are funding a long-term initiative to contribute expertise, research, analysis, and other kinds of support to help the Energy Commission develop and adopt energy efficiency standards.¹⁰ The California IOUs also developed a method for estimating savings associated with their codes and standards work. EMV programs demonstrate the value of energy efficiency programs by providing accurate, transparent and consistent assessments of their methods and performance.

The U.S. Environmental Protection Agency (USEPA) and the California Air Resources Board have studied the environmental and health benefits associated with appliance efficiency standards.¹¹ The California Air Resources Board performed a study that shows that energy efficiency and conservation measures improve air quality by reducing the overall demand for electrical generation and the overall combustion of natural gas in California's residential and commercial sectors.¹² Efficiency and conservation measures that reduce peak demand reduce more air emissions, as aging, less efficient power plants are more likely to be operated when demand is high.

¹⁰ EPA "Energy Efficiency Program Best Practices" ... January 2017 available at https://www.epa.gov/sites/production/files/2015-08/documents/napee_chap6.pdf

¹¹ EPA "Energy Efficiency as a Low-Cost Resource for Achieving Carbon Emissions Reductions" ...September 2009 available at https://www.epa.gov/sites/production/files/2015-08/documents/ee_and_carbon.pdf

¹² CARB "Public Health and Environmental Benefits of Draft Scoping Plan Measures" ...September 2008 available at https://www.arb.ca.gov/cc/scopingplan/document/ph_statewide_a.pdf

The USEPA has also provided tools for assessing the monetary benefits of reductions in air pollution. The Co-Benefits Risk Assessment (COBRA) model, since removed from the USEPA's website under the guidance of the current administration, would allow for DOE as well as state and local governments to assess the health and economic impacts of policies that affect criteria air pollutant levels.¹³ Understanding these benefits of appliance efficiency regulations, based on the best available scientific data, is an important part of sound energy policy-making.

(4) Are there regulations that simply make no sense or have become unnecessary, ineffective, or ill-advised and if so what are they? Are there rules that can simply be repealed without impairing DOE's statutory obligations and, if so, what are they?

The Energy Commission is not aware of any appliance efficiency regulations that meet these criteria.

(5) Are there rules or reporting requirements that have become outdated and, if so, how can they be modernized to better accomplish their objective?

The DOE's Compliance Certification Management System (CCMS) database is where manufacturers upload their test procedure data for regulated products to ensure that they meet the applicable regulation guidelines, allowing products to be sold in the US. Since appliances need to be resubmitted every year, it ensures that the manufacturers follow the regulations and test procedures enacted by the DOE. The Energy Commission's Modernized Appliance Efficiency Database System (MAEDBS) is the California equivalent of CCMS, where manufacturers submit their test data for both state- and federally regulated products and certify that they meet the applicable appliance standards. In addition to being used to monitor compliance, these databases provide useful research data about the energy consumption and product characteristics of regulated appliances, helping in the development of future standards and helping consumers to compare efficiency of products that meet the standards.

The MAEDBS typically collects more information than CCMS due to its coverage of a broader set of products and its ability to complete simple checks on the data submitted to ensure against fraudulent submittals. There may be opportunities to better align CCMS with MAEDBS to help reduce the burden on manufacturers of federally regulated products who otherwise need to certify compliance with both systems. The Energy Commission would be pleased to work with the DOE on such an effort as funding and resources allow.

(6) Are there rules that are still necessary, but have not operated as well as expected such that a modified or slightly different approach at lower cost is justified?

¹³ Information about the COBRA Model is available in the Roland-Holst et al., *supra*, at 39-40.

The Energy Commission is not aware of any appliance efficiency regulations that meet these criteria.

(7) Are there rules of the Department that unnecessarily obstruct, delay, curtail, or otherwise impose significant costs on the siting, permitting, production, utilization, transmission, or delivery of energy resources?

The Energy Commission is not aware of any such regulations. Energy efficiency standards help ensure that the costs associated with energy generation, distribution, and use remain low, and resources flexible enough to meet ongoing demand.

(8) Does DOE currently collect information that it does not need or use effectively?

DOE could improve the way it uses data that it collects for the appliance efficiency program. For example, DOE could use the data in the CCMS system to run internal checks on uploaded specifications, instead of taking the information at face value. There is usually a wide variance in reported information. By running spot checks or creating a tool that can locate outliers or anomalies in information, the DOE would be able to spot manufacturers that have submitted questionable information and might not be in compliance. This would enable the DOE to be more targeted in its enforcement program, using resources to test and follow-up on products that are likely noncompliant, rather than randomized testing.

(9) Are there regulations, reporting requirements, or regulatory processes that are unnecessarily complicated or could be streamlined to achieve statutory obligations in more efficient ways?

While the Energy Commission strongly supports CCMS and the data collected through DOE's reporting obligations for the appliance efficiency standards, one potential avenue for streamlining is working with the Energy Commission to build interfacing capabilities with the state's Modernized Appliance Efficiency Database System (MAEDBS), which similarly requires reporting of data to ensure that manufacturers are complying with both state and federal appliance efficiency regulations. Coordinating the CCMS and the MAEDBS could help minimize the burden on manufacturers reporting compliance with the federal appliance standards.

(10) Are there rules or reporting requirements that have been overtaken by technological developments? Can new technologies be leveraged to modify, streamline, or do away with existing regulatory or reporting requirements?

New technologies form the basis for updated appliance efficiency standards and test procedures. New technologies have also allowed for manufacturers to report compliance through an online portal (CCMS or MAEDBS), reducing paperwork and processing costs for the program. The Energy Commission is not aware of any

additional new technologies or developments that would lead to the elimination of these standards, test procedures, reporting requirements, or compliance obligations.

(11) Does the methodology and data used in analyses supporting DOE's regulations meet the requirements of the Information Quality Act?

The DOE has issued Information Quality Guidelines pursuant to the Information Quality Act, and these guidelines establish mechanisms for members of the public to seek and obtain correction of disseminated information by the DOE. The Guidelines also establish a process to ensure and maximize the quality, objectivity, utility, and integrity of information, including statistical information, disseminated to the public. EPCA established criteria for prescribing new and amended energy conservation standards and directs the DOE to consider seven factors when determining whether a standards is economically feasible.¹⁴ DOE's criteria, the factors, and the DOE's analyses determine the impacts on consumers, business, and other factors. DOE's methodology for adopting energy conservation standards ensure and maximize the quality, objectivity, utility, and integrity of information, including statistical information, disseminated to the public. Therefore, the Energy Commission believes that the DOE's methodology and data used in analyses for the appliance efficiency program meet the requirements of the Information Quality Act.

If you have any questions regarding the Energy Commission's responses to this RFI, please contact Nicholas Timothy, Energy Analyst, at (916) 653-1227, or Nicholas.Timothy@energy.ca.gov.

Sincerely,

ROBERT B. WEISENMILLER
Chair

¹⁴ See 42 U.S.C. § 6295(o)(2)(B)(i).