U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF ADVOCACY
REGULATION • RESEARCH • OUTREACH

May 13, 2022

VIA ELECTRONIC SUBMISSION

The Honorable Jennifer Granholm
Secretary of Energy
U.S. Department of Energy
1000 Independence Ave. SW
Washington, DC 20585

Re: Request to Reopen Comments on Energy Conservation Program for Appliance Standards: Procedures, Interpretations, and Policies for Consideration in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment (86 Fed. Reg. 18901; April 12, 2021).

Dear Secretary Granholm,

On April 12, 2021, the U.S. Department of Energy (DOE) published a proposed rule to update policies for consideration in new or revised energy conservation standards and test procedures for consumer products and commercial and industrial equipment (2021 Process Rule). The Office of Advocacy of the U.S. Small Business Administration (Advocacy) submitted comments on the proposed rule, but the rule was finalized with minimal changes on December 13, 2021.

In December 2021, the National Academies of Sciences (NAS) published a report entitled, "Review of Methods Used by the U.S. Department of Energy in Setting Appliance and Equipment Standards," recommending improvements that Advocacy believes should be properly considered in the 2021 Process Rule. The NAS report also includes useful findings that may inform future DOE energy efficiency rulemakings. Considering the report's findings, Advocacy requests that DOE reopen the public comment period on its final rulemaking and the concurrent proposed rulemaking[1] to give the public the opportunity to review and provide comments on the findings of the report as they pertain to the rules.

[1] Energy Conservation Program for Appliance Standards: Procedures, Interpretations, and Policies for Consideration in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment, 86 Fed. Reg. 35668 (July 7, 2021).

I. The Office of Advocacy

Congress established the Office of Advocacy under Pub. L. 94-305 to represent the views of small entities before Federal agencies and Congress. Advocacy is an independent office within the U.S. Small Business Administration (SBA). As such, the views expressed by Advocacy do not necessarily reflect the views of the SBA or the Administration. The Regulatory Flexibility Act (RFA),[2] as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA),[3] gives small entities a voice in the rulemaking process. For all rules that are expected to have a significant economic impact on a substantial number of small entities, the RFA requires federal agencies to assess the impact of the proposed rule on small entities and to consider less burdensome alternatives.

The Small Business Jobs Act of 2010 requires agencies to give every appropriate consideration to comments provided by Advocacy.[4] The agency must include a response to these written comments in any explanation or discussion accompanying the final rule's publication in the *Federal Register*, unless the agency certifies that the public interest is not served by doing so.[5]

Advocacy's comments are consistent with Congressional intent underlying the RFA, that "[w]hen adopting regulations to protect the health, safety, and economic welfare of the nation, federal agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on the public."[6]

II. Background on the Process Rule and the NAS Study

A. Process Rule Background

Under the Energy Policy Conservation Act (EPCA), DOE is required to develop energy conservation standards and test procedures for covered products.[7] Manufacturers use the test procedures to test their products and certify compliance to DOE. EPCA requires that any new or updated standard that DOE implements be designed to achieve maximum improvement in energy efficiency that is technologically feasible and economically justified.[8] DOE defines "economically justified" to include the economic impact of the standard on the manufacturer, as well as the impact of any lessening of competition.[9] The process by which DOE implements provisions of EPCA was updated in 1996 and came to be known as the "Process Rule".[10]

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[2] 5 U.S.C. §601 et seq.
[3] Pub. L. 104-121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C. §601 et seq.).
[4] Small Business Jobs Act of 2010 (PL. 111-240) §1601.
[5] *Id*.
[6] *Id.*
[7] 42 U.S.C. § 6293. *Also* 42 U.S.C. § 6314.
[8] 42 U.S.C. §6295 (o) (2) (A).
[9] 42 U.S.C. § 6295 (o) (2) (B)(i).
[10] Procedures, Interpretations and Policies for Consideration of New or Revised Energy Conservation Standards for Consumer Products, 61 Fed. Reg. 39674 (July 15, 1996).

On December 18, 2017, DOE issued a request for information on potential revisions to the process rule.[11] In response to comments on the request for information, the agency issued a proposed rule updating its policies and procedures.[12] After considering public comments, DOE finalized the rule on February 14, 2020.[13] On April 12, 2021, DOE proposed a new process rule that attempted to modify or remove portions of the 2020 final rule.[14] On May 25, 2021, Advocacy filed a public comment letter outlining concerns that the rule had the potential to create regulatory burdens for small business.[15] On December 13, 2021, DOE finalized its rescission of the 2020 Process Rule without addressing Advocacy's small business concerns.[16]

DOE adopted the following changes in its final rule despite comments from Advocacy and other small business stakeholders.[17]

a) The rule removes the binding nature of the 2020 final process rule. DOE would instead implement procedures on a case-by-case basis as was the practice under the 1996 rule.[18]
b) The rule eliminates the requirement for early engagement through a request for information or advance notice of proposed rulemaking. Instead of early engagement being the default procedure for proposed rulemakings, the agency would return to discretionary use of these tools.[19]
c) The 2021 rule removes the significant energy savings threshold set forth in the 2020 final rule. This portion of the 2020 rule had created a numerical threshold requiring that an

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[11] Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards for Consumer Products, 82 Fed Reg. 59992, (December 18, 2017).
[12] 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, 84 Fed. Reg. 3910 (February 13, 2019).
[13] Energy Conservation Program for Appliance Standards: Procedures for Use in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment, 85 Fed. Reg. 8626 (February 14, 2020).
[14] Energy Conservation Program for Appliance Standards: Procedures, Interpretations, and Policies for Consideration in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment, 86 Fed. Reg. 18901 (April 12, 2021).
[15] *See* Energy Conservation Program for Appliance Standards: Procedures, Interpretations, and Policies for Consideration in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment, 86 Fed. Reg. 18901 (April 12, 2021), Comments from the Office of Advocacy filed on May 25, 2021, https://advocacy.sba.gov/2021/05/25/advocacy-submits-comment-letter-on-energy-conservation-program-for-appliance-standards/.
[16] DOE also published a concurrent proposed rule on July 7, 2021, that includes additional modifications to the process rule. These modifications were not part of Advocacy's comments, however in light of the NAS findings, DOE should also consider reopening comments on this rulemaking docket as well. *See* note 1.

[17] For final rule language *see*, Energy Conservation Program for Appliance Standards: Procedures, Interpretations, and Policies for Consideration in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment; Final rule, 86 Fed Reg. 70892 (December 13, 2021).
[18] *Id.* at 18904.
[19] *Id.*

energy conservation standard result in a specified reduction in energy use to be considered for amendments to the energy conservation standards. [20]

d) The 2020 final rule required that DOE establish and finalize test procedures for a particular product at least 180 days prior to publication of a proposed energy conservation standard. The 2021 final rule eliminates this requirement unless the test procedure is for a new product, or significant amendments to the test procedure are made.[21]
e) The proposal eliminates the requirement to conduct a comparative analysis when determining whether a specific conservation threshold is economically justified.[22]

B. The NAS Study

On December 28, 2021, the National Academies of Sciences, Engineering, and Medicine (NAS) published a report that reviews and provides findings and recommendations on DOE's methods for setting energy efficiency standards for covered products.[23] Within the report, NAS outlines several findings and recommendations for improving the standard setting process. While many of the recommendations are necessary to improve regulatory certainty for small businesses,[24] Advocacy emphasizes two outlined below.

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[20] *Id.* at 18905.
[21] *Id.* at 18908.
[22] *Id*. at 18906.
[23] *Review of Methods Used by the U.S. Department of Energy in Setting Appliance and Equipment Standards*, National Academies of Sciences, Engineering, and Medicine, The National Academies Press, (December 28, 2021), https://www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards#sectionPublications
[24] *See id.* Additional Recommendation within the report include but are not limited to: (1) DOE should give greater attention to the market failure that a particular energy efficiency standard aims to correct, and the presumption should be that market actors behave rationally unless there is evidence or specific argument to the contrary. (2) DOE should expand the cost analysis section to include ranges of costs, consumption patterns, etc. (3) DOE should provide a range reflecting variability in energy consumption under different uses rather than a "point" estimate, which will allow for greater innovation. (4) DOE should obtain better data to improve its economic analyses.

1. DOE should use the framework laid out in the Office of Management and Budget's Circular A-4 to organize DOE's regulatory impact analysis for its energy efficiency rulemakings.[25]
2. DOE should pay greater attention to the justification for its rulemakings, including the requirement that the efficiency standard being proposed be economically justified.[26]

On February 11, 2022, Advocacy held a small business roundtable to discuss the findings of the NAS report and gather feedback from small businesses on the report.[27] During the roundtable, attendees stated that DOE should reopen the comment period on the process rule, because the findings of the report have a direct impact on the process rule and future energy efficiency rulemakings. Following the roundtable, several small business representatives submitted a letter to DOE requesting that the agency solicit comments on how to implement the findings of the NAS report within the rulemaking framework and wait to finalize further amendments until the agency has reviewed the comments and feedback on the NAS report and determined how to incorporate them.[28]

III. Advocacy's Comments

A. DOE should reconsider the use of comparative analysis in its rulemakings and provide proper and through analyses for its rulemakings including justification for a chosen energy savings standard.

Within the NAS report, the Academies made several recommendations to DOE for improving its efficiency standards process. Consistent with comments made by Advocacy, NAS recommended that DOE should use the framework from Circular A-4 to organize its regulatory impact analysis for rulemakings. NAS also recommended that DOE pay greater attention to the justification for

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[25] *See* Office of Management and Budget, Circular A-4, Regulatory Analysis, To the Heads of Executive Agencies and Establishments, (Sept. 17, 2003), Circular A-4 (whitehouse.gov). See also *Review of Methods Used by the U.S. Department of Energy in Setting Appliance and Equipment Standards*, National Academies of Sciences, Engineering, and Medicine, The National Academies Press, (Dec. 28, 2021), https://www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards#sectionPublications

[26] *Review of Methods Used by the U.S. Department of Energy in Setting Appliance and Equipment Standards*, National Academies of Sciences, Engineering, and Medicine, The National Academies Press, (Dec. 28, 2021), https://www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards#sectionPublications

[27] SBA Office of Advocacy, Energy Roundtable (February 11, 2022), https://advocacy.sba.gov/2022/01/25/energy-roundtable-february-11-2022/

[28] *See* Joint Request to Reopen Comments on DOE's 2nd 2021 Process Rule NOPR; Docket No. EERE-2021-BTD-STD-0003; RIN 1904-AF13 (attached).

its rulemakings, specifically with respect to the EPCA requirements that the efficiency standards be economically justified.[29]

The NAS committee observed that DOE does not integrate its regulatory impact analyses into the rulemaking framework, and that the agency focuses on regulatory alternatives that are not permitted by statute.[30] In its recent comments on the 2021 Process Rule updates, Advocacy commented that DOE should not have removed the comparative analysis requirement set forth in the 2020 Process Rule because it ensured that DOE would consider and implement efficiency standards that are both technologically feasible and economically justified as required by statute. Furthermore, Advocacy commented that DOE should keep the comparative analysis requirement so that the agency can ensure better compliance with the RFA.

Previously, DOE has failed to adequately consider the economic impacts of a selected efficiency standard level on small businesses. As a result, DOE has failed to comply with the requirements of the RFA.[31] In several instances, DOE selected a standard that was neither technologically feasible for a small business, nor economically justified. Furthermore, one of the requirements of the RFA is to discuss significant alternatives which minimize the economic impacts on small entities.[32] On multiple occasions, DOE has failed to discuss alternatives, instead pointing to its regulatory impact analyses that include the range of alternative energy efficiency standards considered. Most of the time these standards include options that are not feasible under the statute or "no action" alternatives. No discussion is included regarding regulatory alternatives that may minimize the burden on small businesses as required under the RFA. The NAS report notes that regulatory impact analyses are presented after other analyses and separate from the rulemaking. Placing regulatory impact analyses here runs contrary to the intended purpose of giving notice of the costs of the rule and less costly alternatives. It is necessary for DOE to integrate regulatory impact analyses during the drafting of the rule and to consider alternatives in order to comply with several statutes and offer a greater level of transparency.

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[29] *Review of Methods Used by the U.S. Department of Energy in Setting Appliance and Equipment Standards*, National Academies of Sciences, Engineering, and Medicine, The National Academies Press, (Dec. 28, 2021) at 25, https://www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards#sectionPublications

[30] *Id.* at 21.

[31] *See e.g.,* Comments from Office of Advocacy on Proposed Energy Conservation Standards for Manufactured Housing, filed on June 17, 2016, available at https://webarchive.loc.gov/all/20170105214836/https://www.sba.gov/advocacy/08-16-2016-comments-proposed-energy-conservation-standards-manufactured-housing-81-fed-reg; Comments from Office of Advocacy on Proposed Energy Conservation Standards for Refrigerated Bottled or Canned Beverage Vending Machine filed on November 23, 2015, available at https://webarchive.loc.gov/all/20170305093158/https://www.sba.gov/advocacy/11-23-2015-comments-proposed-energy-conservation-standards-refrigerated-bottled-or-canned; Comments from Office of Advocacy Proposed Energy Conservation Standards for Hearth Products, filed on May 8, 2015 available at https://webarchive.loc.gov/all/20170305115505/https://www.sba.gov/advocacy/5815-comments-department-energy-proposed-energy-conservation-standards-hearth-products.

[32] 5 U.S.C. 603 (c).

Given that the NAS findings are consistent with comments that Advocacy has made to DOE on numerous occasions, DOE should revisit its rescission of the use of comparative analyses in rulemaking as codified in the 2020 process rule. Considering the NAS recommendations, and the requirements of the RFA, DOE's analyses would benefit from and better comply with the statute were the agency to use comparative analysis in its rulemaking.

B. DOE should submit the report to the docket for notice and comment.

DOE referenced the NAS report in the preamble of both the final process rule issued in December 2021 and the notice of proposed rulemaking published in July 2021: "DOE engaged with the National Academy of Sciences to review DOE's analytical methodologies to ascertain whether modifications are needed to improve the Department's analyses. That review process is still ongoing."[33] Given the relevance of the NAS report and its application to how appliance standards are developed, the findings and recommendations within the report are material to the rule's final promulgation.

Federal agencies have a duty to identify and make available technical studies and data employed in reaching the decisions to propose rules.[34] DOE must provide access to the reports it used during the rulemaking process so that interested parties may provide substantive feedback. The D.C. Circuit has consistently maintained that "in order to allow for useful criticism it is especially important for the agency to identify and make available *technical studies and data* that it has employed in reaching the decisions to propose particular rules." (Emphasis added by the Court).[35] An agency fails to satisfy the notice and comment requirements of the Administrative Procedure Act when it does not disclose, in full, studies upon which the Commission relied in promulgating a rule. Now that the NAS report is publicly available, it should be included in the record of the final rule.

C. Updates to energy efficiency standards directly impact small businesses. As such, DOE should conduct proper and thorough Regulatory Flexibility Act analyses for its rulemakings.

DOE states that the standards and procedures covered by the process rule pertain to more than 60 categories of products, and that DOE is typically working on 50 to 100 different rulemakings for such standards and procedures at any given time.[36] Examining this large and difficult-to-define set of regulated industries will give a sense of the universe of potentially affected small businesses.

Most businesses affected by the relevant DOE standards and procedures fall within one of the following North American Industry Classification System (NAICS) categories: Machinery

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[33] 86 Fed. Reg. at 35677, 70924.
[34] *Solite Corp. v. EPA*, 293 U.S. App. D.C. 117, 952 F.2d 473, 484 (1991)
[35] *Conn. Light & Power Co.*, 673 F.2d at 5305
[36] Energy Conservation Program for Appliance Standards: Procedures, Interpretations, and Policies for Consideration in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment; Final rule, 86 Fed Reg. 70892 (December 13, 2021).

Manufacturing (NAICS code 333), Computer and Electronic Product Manufacturing (NAICS code 334), and Electrical Equipment, Appliance, and Component Manufacturing (NAICS code 335). These industries include 35,125 small businesses.[37] Examples of sub-industries that are commonly affected by DOE standards include Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing (NAICS code 333415), which includes 657 small businesses, and Commercial, Industrial, and Institutional Electric Lighting Fixture Manufacturing (NAICS code 335122), which includes 409 small businesses.

While DOE standards and procedures may only impact a fraction of the small businesses in any industry, the number of impacted businesses and the impact on those businesses can vary greatly. For example, DOE proposed a rule in 2015 on gas-fired commercial warm air furnaces that only affected one small business, but the impact on that one small business was significant.[38] In that same year, DOE also proposed a rule on hearth products that DOE claimed affected 66 small businesses, but stakeholder input indicated this number was underestimated.[39]

DOE should use the data most appropriate to each rule. Many rules only affect a few small businesses, and DOE typically uses the appropriate approach of identifying those specific businesses and analyzing the impacts they will face. In other circumstances, however, there may be tens or hundreds of affected businesses, or identifying the specific small businesses may prove too difficult. In these situations, DOE should turn to publicly available data on the affected industries. The U.S. Census Bureau's Statistics of U.S. Businesses and Nonemployer Statistics provide the best available data in most such circumstances. These datasets provide the information necessary for DOE to analyze the number and distribution of firms of various sizes within each industry, and subsequently how the impacts of a regulation differ by business size.

These data also allow DOE to analyze significant alternatives—as is required in any initial or final regulatory flexibility analysis—and compare the small business impacts of those alternatives with DOE's chosen approach. This will help DOE not only comply with the RFA, but also comply with statutory requirements under EPCA to analyze and choose those efficiency standards that are economically justified.

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[37] U.S. Census Bureau Statistics of U.S. Businesses: 2017 Annual Data Tables by Establishment Industry, 2017 SUSB Annual Data Tables by Establishment Industry (https://www.census.gov/programs-surveys/susb.html)

[38] SBA Office of Advocacy, Comments on EPA's proposed rule "Federal Plan Requirements for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014; Model Trading Rules; Amendments to Framework Regulations", 12/21/2015-Comments on EPA's proposed rule "Federal Plan Requirements for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014; Model Trading Rules; Amendments to Framework Regulations" | The U.S. Small Business Administration | SBA.gov, (December 21, 2015).

[39] SBA Office of Advocacy, Comments to Department of Energy on Proposed Energy Conservation Standards for Hearth Products, 5/8/15 - Comments to Department of Energy on Proposed Energy Conservation Standards for Hearth Products | The U.S. Small Business Administration | SBA.gov, (May 8, 2015).

IV. Conclusion

DOE should reopen the comment dockets for the 2021 process rules and allow the public the opportunity to review and comment on the findings of the NAS report as they pertain to the rulemakings. DOE should consider comments received and take appropriate action, including initiating a new rulemaking, to incorporate the findings of the NAS report. Advocacy and small businesses both support these actions and they are needed to ensure that DOE is updating energy efficiency standards when it is necessary to do so and only to the extent that they are technologically feasible and economically justified as required by statute. If you have any questions or require additional information, please contact me or Assistant Chief Counsel Prianka Sharma at (202) 205-6938 or by email at prianka.sharma@sba.gov.

Sincerely,

/s/
Major L. Clark, III
Deputy Chief Counsel
Office of Advocacy
U.S. Small Business Administration

/s/
Prianka P. Sharma
Assistant Chief Counsel
Office of Advocacy
U.S. Small Business Administration

Copy to: Dominic Mancini, Deputy Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget

Enclosures (1)

March 9, 2022

By E-mail

Ms. Kelly Speakes-Backman
Principal Deputy Assistant Secretary and
Acting Assistant Secretary for Energy Efficiency and Renewable Energy
U.S. Department of Energy
Office of Energy Efficiency and Renewable Energy
1000 Independence Avenue, SW
Washington, DC 20585-0121

processrule2021STD0003@ee.doe.gov

Re: Joint Request to Reopen Comments on DOE's 2nd 2021 Process Rule NOPR; Docket No. EERE-2021-BTD-STD-0003; RIN 1904-AF13

Dear Ms. Speakes-Backman:

The Air-Conditioning, Heating, and Refrigeration Institute (AHRI), Air Movement and Control Association (AMCA) International Inc., American Lighting Association (ALA), Association of Home Appliance Manufacturers (AHAM), Consumer Technology Association (CTA), Hearth, Patio & Barbecue Association (HPBA), Heating Air-conditioning & Refrigeration Distributors International (HARDI), National Electrical Manufacturers Association (NEMA), North American Association of Food Equipment Manufacturers (NAFEM), and Power Tool Institute (PTI), (collectively, the Joint Commenters) respectfully submit the following request to the Department of Energy (DOE or Department) to reopen the comment period on its Second Notice of Proposed Rulemaking on Procedures, Interpretations, and Policies for Consideration in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment (Second 2021 Process Rule NOPR); Docket No. EERE-2021-BT-STD-0003; RIN 1904-AF13; 86 Fed. Reg., 35668 (July 7, 2021).

In its Second Process Rule NOPR, DOE proposed a number of changes to the Process Rule to reflect the current state of DOE's methodologies as they have evolved since the 1996 Process Rule was promulgated and were not changed in the 2020 Process Rule.

The Joint Commenters opposed these changes because the National Academies of Sciences was actively conducting a peer review process examining these methodologies and the review process was expected to soon conclude. That process is now complete and the reviewing committee released a comprehensive and extensive report (NAS Report).[1] That report made numerous recommendations which DOE should consider and seek comment on from interested parties.[2] Accordingly, we ask that DOE re-open the comment period on the Second 2021 Process Rule NOPR to allow commenters to provide additional feedback on DOE's proposals with regard to its methodologies for at least 60 days. DOE should also consider seeking advice from the Appliance Standards and Rulemaking Advisory Committee (ASRAC) on how the Department should address the recommendations in the NAS Report. That body is uniquely qualified to work together to make recommendations to DOE supported by a group of stakeholders from varying points of view.

Ideally, instead of engaging in a three-step process to amend the Process Rule—Part 1, Part 2, and an eventual Part 3 focused on analytical methodologies—DOE would have proposed a single rule that would have allowed interested parties to holistically evaluate all proposed changes. The piecemeal approach DOE has chosen instead not only takes more time and effort on the part of DOE as well as interested parties such as our members, but it also detracts from other product-specific rulemakings thereby, ironically, likely delaying those rulemakings and their savings. The Joint Commenters, therefore, suggest that DOE wait to finalize further amendments to the Process Rule until DOE has reviewed the NAS Report and solicited comment on how DOE should adopt the recommendations. Then, DOE should issue an SNOPR that takes into account the feedback DOE has received, including from the ASRAC.

The Joint Commenters

AHRI is the trade association representing manufacturers of heating, cooling, water heating, commercial refrigeration equipment, and refrigerant producers. More than 300 members strong, AHRI is an internationally recognized advocate for the industry, and develops standards for and certifies the performance of many of the products manufactured by our members. In North America, the annual output of the HVACR industry is worth more than $20 billion. In the United States alone, our members employ approximately 130,000 people, and support some 800,000 dealers, contractors, and technicians.

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[1] *See* 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. https://doi.org/10.17226/25992.

[2] The Joint Commenters are not commenting here on the substance of the report or whether we agree with the recommendations therein. We are simply seeking the ability to do so on the record for this rulemaking.

AMCA is a not-for-profit association of manufacturers of fans, dampers, louvers, air curtains, and other air-system components for commercial HVAC, industrial-process, and power-generation applications. With programs such as certified ratings, laboratory accreditation, verification of compliance, and international standards development, its mission is to advance the knowledge of air systems and uphold industry integrity on behalf of more than 400 AMCA members worldwide.

ALA represents over 1,200 member companies in the residential lighting, ceiling fan and controls industries in the United States, Canada and the Caribbean. Member companies are manufacturers, manufacturers' representatives, retail showrooms, and lighting designers that have the expertise to educate and serve their customers.

AHAM represents more than 150 member companies that manufacture 90% of the major, portable and floor care appliances shipped for sale in the U.S. Home appliances are the heart of the home, and AHAM members provide safe, innovative, sustainable and efficient products that enhance consumers' lives. The home appliance industry is a significant segment of the economy, measured by the contributions of home appliance manufacturers, wholesalers, and retailers to the U.S. economy. In all, the industry drives nearly $200 billion in economic output throughout the U.S. and manufactures products with a factory shipment value of more than $50 billion.

As North America's largest technology trade association, CTA® is the tech sector. Our members are the world's leading innovators – from startups to global brands – helping support more than 18 million American jobs. CTA owns and produces CES® – the most influential tech event in the world.

Based in Arlington, VA, HPBA is the principal trade association representing the hearth products and barbecue industries in North America. HPBA's members include manufacturers, retailers, distributors, manufacturers' representatives, service installation firms, and other companies and individuals who have business interests related to the hearth, patio, and barbecue industries.

HARDI is a trade association comprised of over 800 member companies, over 400 of which are U.S.–based wholesale distribution companies. More than 80 percent of HARDI's distributor members are classified as small businesses that collectively employ over 60,000 U.S. workers, representing more than $40 billion in annual sales and an estimated 70 percent of the U.S. wholesale distribution market of heating, ventilation, air-conditioning and refrigeration (HVACR) equipment, supplies, and controls.

NEMA represents some 325 electrical equipment and medical imaging manufacturers that make safe, reliable, and efficient products and systems. Our combined industries account for 370,000 American jobs in more than 6,100 facilities covering every U.S. state. Our industry produces $124 billion shipments of electrical equipment and medical imaging technologies per year with $42 billion exports.

NAFEM is a trade association of more than 600 commercial foodservice equipment and supplies manufacturers – a $14.9 billion industry. These businesses, their employees and the products they manufacture, support the food away from home market – which includes more than one million locations in the U.S. and countless more around the world.

The PTI is a trade association of the leading power tool manufacturers in the United States. It has been very active in providing ongoing, responsible advocacy promoting meaningful rulemaking for battery charging systems in the United States and Canada.

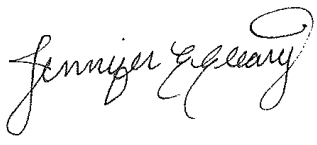
The Joint Commenters appreciate the opportunity to submit these comments on the Second 2021 Process Rule NOPR. We hope DOE will seriously consider our request and we would be glad to discuss these matters in more detail should you so request.

Respectfully Submitted,

Marie Carpizo
General Counsel
Air-Conditioning, Heating, and Refrigeration Institute

Michael Ivanovich
Senior Director, Global Affairs
AMCA International

Michael Weems
Vice President, Government Engagement
American Lighting Association



Jennifer Cleary
Vice President, Regulatory Affairs
Association of Home Appliance Manufacturers

(signatures continued on next page)

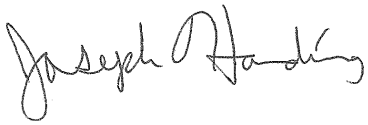
Douglas Johnson
Vice President, Emerging Technology
Consumer Technology Association

Ryan Carroll
Vice President—Government Affairs
Hearth, Patio & Barbecue Association

Alex Ayers
Director of Government Affairs
Heating, Air-conditioning, & Refrigeration Distributors International

Alex Boesenberg
Director of Regulatory Affairs
National Electrical Manufacturers Association

Charlie Souhrada, CFSP
Vice President, Regulatory & Technical Affairs
North American Association of Food Equipment Manufacturers



Joseph Harding
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