May 3, 2019

Daniel R. Simmons
Assistant Secretary
U.S. Department of Energy
Office of Energy Efficiency and Renewable Energy
1000 Independence Ave. SW
Washington, DC 20585

Re: EERE-2018-BT-STD-0010—"Energy Conservation Program: Energy Conservation Standards for General Service Lamps"

Dear Assistant Secretary Simmons:

Thank you for the opportunity to submit comments in response to the U.S. Department of Energy's (DOE's) February 11, 2019, Notice of Proposed Rulemaking (NOPR) concerning the "Energy Conservation Program: Energy Conservation Standards for General Service Lamps" ("GSLs") (Docket No. EERE-2018-BT-STD-0010). In summary, the Alliance to Save Energy opposes DOE's proposal and finds that it runs contrary to law.[1] Further, the proposal creates needless market uncertainty, and, if somehow finalized, would cause American homeowners, consumers, and businesses to lose out on substantial energy savings. The Alliance urges DOE to withdraw its proposal and instead proceed with the implementation of the lightbulb standards scheduled to take effect next year.

The Alliance is a nonprofit, bipartisan coalition of business, government, civil society, and academic leaders who work together to drive greater U.S. energy productivity to achieve economic growth, a cleaner environment, and greater energy security, affordability and reliability. Since the Alliance was founded in the wake of the oil crises of the 1970s, the U.S. has made huge strides in driving energy efficiency throughout our economy through research, development, and deployment of new technologies; significant public- and private-sector investments; and sound policies. Thanks in part to federal energy efficiency policy, the U.S. has doubled its energy productivity since 1980, meaning our economy generates twice as much gross domestic product from each unit of energy we consume compared to then. One of the most successful policies that has advanced energy efficiency—and currently delivers annual savings worth more than $60 billion—is the implementation of energy conservation standards for appliances, equipment, and lighting.

Benefits of Energy Conservation Standards

Energy conservation standards are among the most effective and cost-effective policies for cutting energy and water waste and lowering energy bills for U.S. consumers and businesses.

[1] The Alliance is also aware and supportive of and wishes to be associated with the legal and technical comments submitted to Docket No. EERE-2018-BT-STD-0010 by the Natural Resources Defense Council and EarthJustice as well as those prepared by the Appliance Standards Awareness Project et al.

The typical U.S. household saves about $500 each year because of national standards for consumer products.[2] U.S. businesses also save money—an estimated $23 billion in 2015 alone—due to existing standards for equipment used in commercial buildings and industry.[3] Combined, total consumer and business bill savings reached about $80 billion in 2015.[4] DOE estimates that cumulative savings from already existing appliance standards will exceed $2 trillion dollars by 2030.[5] Recent research has shown that standards have not only saved money, but have also spurred innovations leading to enhanced choices available for consumers.[6]

Few standards have the potential to generate benefits at the scale of the lightbulb rule set to take effect in January 2020. Lawrence Berkeley National Laboratory (LBNL) found that these standards would result in energy savings of 27 quadrillion British Thermal Units (BTUs) (quads) through 2049, which is more than the 20 quads used by the entire U.S. residential sector in 2016.[7] The rules would cut carbon dioxide emissions by 540 million metric tons by 2030.[8] On an individual household basis, the average American family would save $180 each year by 2025 thanks to lightbulb standards, with more than 60 percent attributable to the updated 2020 rules.[9] In total, annual consumer savings on electricity bills are expected to reach $22 billion by 2025 with the scheduled updated standards in place.

Background of the January 2020 Standard

In 2007 Congress passed the bipartisan Energy Independence and Security Act (EISA), which was signed into law by President George W. Bush. EISA is a sweeping package of energy policy changes intended by lawmakers to move the U.S. toward greater energy independence and security, as the bill name states, partly by granting new authorities to DOE to improve the energy efficiency of appliances, equipment, and lighting products. Relevant now to DOE's proposal, Title III of EISA established a two-phase process for implementing new lightbulb standards. The first, for general service incandescent lamps (GSILs), was phased in between 2012 and 2014 and required roughly 25 percent more efficiency for light bulbs.

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[2] Appliance Standards Awareness Project, *Appliance Standards Questions and Answers* (2017) (online at appliance-standards.org/sites/default/files/Why_National_Appliance_Standards%202017_0.pdf).
[3] deLaski, Andrew and Mauer, Joanna, *Energy-Saving States of America: How Every State Benefits from National Appliance Standards*, Appliance Standards Awareness Project and the American Council for an Energy-Efficient Economy (Feb. 2017) (online at appliance-standards.org/sites/default/files/Appliances standards white paper 2 2-14-17.pdf).
[4] *Id.*
[5] Department of Energy, *Saving Energy and Money with Appliance and Equipment Standards in the United States* (Jan. 2017) (online at www.energy.gov/sites/prod/files/2017/01/f34/Appliance%20and%20Equipment%20Standards%20Fact%20Sheet-011917_0.pdf).
[6] *See* note 2.
[7] Lawrence Berkeley National Laboratory, Energy Analysis and Environmental Impacts Division, *Impact of the EISA 2007 Energy Efficiency Standard on General Service Lamps* (Jan. 2017) (online at ees.lbl.gov/sites/default/files/lbnl-1007090-rev2.pdf).
[8] *Id.*
[9] *See* note 2.

The second required improved standards for all general service lamps (GSLs) following a final rule due in January 2017 that would take effect by January 2020. The law provided a set of process deadlines for DOE to meet in order to set a new standard that saves at least 45 lumens per watt (lm/W). EISA very clearly states that if DOE missed those deadlines, or set an inadequate standard, then the law triggers an automatic backstop standard of 45 lm/W for GSLs. As it turned out, in January 2017, DOE published final rules that implemented the 45 lm/W backstop, per EISA, and expanded the definition of GSLs to cover a broader range of lightbulbs under updated standard.[10]

Opposition to the Department of Energy Proposal

DOE's proposal would undo the final rules published in January 2017 by pretending that the 45 lm/W backstop was never triggered and scaling back the GSL definitions to their pre-2017 scope. With respect to the backstop, EISA states that if the Secretary of Energy fails to complete a rulemaking by January 1, 2017, then effective January 1, 2020, "the Secretary shall prohibit the sale of any [GSL] that does not meet a minimum efficacy standard of 45 [lm/W]." DOE's arguments that contend the backstop was never triggered do not stand up to the structure, logic, or intent of the law as it is plainly written. EISA does not contemplate excuses for why DOE missed its deadlines, including claims that Congress prevented it from completing work on a standard before the deadline. The backstop was triggered, plain and simple. DOE's proposal would lead to a weaker standard, which would result in backsliding, and which is illegal.

Regarding the updated definitions, DOE was operating fully within its authority under EISA to expand the definition of GSLs. Title III, subtitle B § (a)(6)(A)(i)(II) permits DOE to determine whether "the exemptions for certain incandescent lamps should be maintained or discontinued based, in part, on exempted lamp sales collected by the Secretary from manufacturers." The change in definition functionally changes those exemptions and is explicitly permitted under EISA. DOE's current arguments that asserts some improper use of authority in 2017 are not persuasive. The Alliance urges DOE to withdraw its proposal.

There is a lot at stake in this rulemaking. DOE's proposal would cause needless market uncertainty less than one year before the new standards are set to take effect. Tragically, this uncertainty is due entirely to DOE's decision to publish its proposal. In a world with no rollback proposal, there would be no uncertainty: the U.S. would be marching steadily, predictably toward new standards and greater savings. Just as was the case on the day before DOE published its proposal. And in January 2020, just as was the case in 2012 and 2014 and last year in California, the transition would occur without incident following years of good-faith preparing and planning by manufacturers, retailers, and utilities.

While the Alliance is convinced DOE's proposal is illegal, if somehow it prevails in the near-term all the certainty and clarity guaranteed by the 45 lm/W backstop would vanish. Consumers

[10] Energy Conservation Program: Energy Conservation Standards for General Service Lamps, 82 Fed. Reg. 7322 (Jan. 19, 2017); Energy Conservation Program: Energy Conservation Standards for General Service Lamps, 82 Fed. Reg. 7276 (Jan. 19, 2017).

would be confused, retailers would be confused, manufacturers would be confused—everyone would be confused. Nobody would know whether the standards would remain at previous levels (i.e., the 2014 phase), or if DOE could be compelled following an inevitable lawsuit to adopt the 2020 standards on some unknown timeline, or whether some other regime will be put in place by a future administration or imposed by the courts. This uncertainty is also manifest in the inherent unfairness to manufacturers, retailers, and utilities that have dutifully prepared and planned for the 45 lm/W backstop based on an expectation that DOE would follow its own rules. It is worth restating that all this uncertainty could be eliminated with a simple withdrawal by DOE of its ill-considered proposal.

In addition to market uncertainty, DOE's proposal would result in considerable lost savings if it somehow takes effect. According to LBNL, 3.5 billion "A-series" lightbulbs and 2.9 billion lightbulbs that fell under the new categories that would be covered by the 2020 standards were sold in the fall of 2015.[11] It also worth restating that the costs of DOE's proposal would fall on average Americans—to the tune of $115 per household each year in higher energy bills.

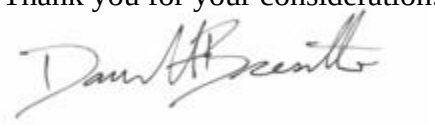
Conclusion

This whole endeavor sets a bad precedent for DOE rulemakings going forward. DOE's argument that it only now understands the GSL update as Congress intended is wrong. If DOE can relitigate its decisions at any point in time, then no rulemaking has any meaningful force or effect. The Alliance has faith in DOE's ability to do its work, which in this case already happened. In other proceedings, the Alliance has stated that the best version of the standards program is robust, regular, transparent, and predictable. That is all predicated on the idea that forward progress is protected from backsliding. DOE's proposal would undo that protection and put standards—present and future—at risk, which in turn would compromise our ability to advance energy efficiency and use our scarce energy resources more productively.

On many occasions, including before Congress, you have said that "one of my top priorities in the Office of Energy Efficiency and Renewable Energy is energy affordability and cost-effective energy efficiency is an important aspect of overall energy affordability."[12] The Alliance agrees. But the Alliance is concerned that DOE's proposal would undermine your worthy goals and actually make it harder for American households to afford their energy consumption. The Alliance encourages you to reconsider and withdraw DOE's proposal to allow the standards established by the trigger in EISA and expanded definition, as published by DOE in 2017, to take effect on schedule in January 2020.

[11] *See* note 9.
[12] Statement of Assistant Secretary Daniel Simmons, Office of Energy Efficiency and Renewable Energy, Department of Energy before the House Committee on Energy Commerce, *Hearing on Investing in America's Energy Infrastructure: Improving Energy Efficiency and Creating a Diverse Workforce*, 116th Cong. (Apr. 10, 2019).

Thank you for your consideration.



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