



Consumer Federation of America



December 17, 2021

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

Re: Implementing Executive Order 13990: Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis

Dear Secretary Granholm:

We write today to express our concern that the U.S. Department of Energy (DOE) is all but certain to miss its own year-end deadlines for reversing harmful appliance standards rules issued under the prior administration. Prompt action to complete these reversals is an essential and urgent step if DOE hopes to further implementation of Executive Order 13990; it is also a requirement for DOE to get the appliance standards program back on track, catching up on missed legal deadlines as well as meeting upcoming ones. Timely completion of new and updated efficiency standards could reduce annual household utility bills by \$100 on average by 2030, with savings increasing to \$350 annually by 2050; updated standards also have the potential to reduce climate change emissions by 1.5 to nearly 3 gigatons by 2050.¹

In Executive Order 13990, President Biden identified the need for swift action to, among other goals, “promote and protect our public health and the environment.”² This order directed agencies, including DOE, to review and consider “suspending, revising or rescinding” regulations promulgated during the

¹ Joanna Mauer and Andrew deLaski, *A Powerful Priority: How Appliance Standards Can Help Meet U.S. Climate Goals and Save Consumers Money*, at iv (2021), available at https://appliance-standards.org/sites/default/files/Powerful_Priority_Report.pdf.

² *Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis*, published at 86 Fed. Reg. 7037. (Jan. 25, 2021) (hereinafter EO 13990); *see also* Fact Sheet: List of Agency Actions for Review (Jan. 20, 2021), available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-list-of-agency-actions-for-review/>.

previous administration that are inconsistent with the President's goal of reducing greenhouse gas emissions while creating good-paying jobs. The order and accompanying White House fact sheet also directed specific attention to several DOE actions, including changes to the way the agency revises and updates energy efficiency standards.³ Pursuant to the order's requirement that agencies identify actions that are "inconsistent with" or present "obstacles" to President Biden's agenda to protect public health and the environment and combat the growing climate crisis, DOE listed 13 rules for review.⁴ The Executive Order directs DOE to complete these reviews by December 31, 2021.

To date, DOE has made some progress, including recently finalizing partial revisions to the agency's approach to updating energy efficiency standards.⁵ DOE has also made progress in the early stages of many test procedure and efficiency standards rulemakings.

Unfortunately, DOE's new Regulatory Agenda published last week moves the final action target dates for several rules under review into 2022; DOE may miss even those new, delayed targets in some cases. DOE can, and must, act with more urgency to undo the harmful procedures and rules that remain in place, including:

- Remaining revisions to DOE's "Process Rule," which are critical to the rest of DOE's efficiency standards work;⁶
- Revocation of incorrect legal conclusions regarding gas-using residential furnaces and commercial water heaters;⁷
- Restoration of important light bulb definitions and implementation of the general service lamp backstop;⁸
- Elimination of illegal "short-cycle" product classes.⁹

DOE must re-commit to promptly act on these rules, finishing any that are not completed by year's end as early in 2022 as possible and, in parallel, develop a plan to meet overdue and upcoming deadlines for updating standards. DOE must finalize the remaining revisions to the Process Rule, which guides the entire energy efficiency standards development program. Failure to complete these necessary revisions

³ *Id.* at 7038.

⁴ Kelly Speakes-Backman, Review of Actions of the Prior Administration (Feb. 19, 2021), available at: https://www.energy.gov/sites/prod/files/2021/02/f82/eere_eo13990_memo_1.pdf.

⁵ 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. 70,892 (Dec. 13, 2021).

⁶ 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. 35,668 (Jul. 7, 2021).

⁷ Energy Conservation Program for Appliance Standards: Energy Conservation Standards for Residential Furnaces and Commercial Water Heaters, 86 Fed. Reg. 48,049 (Aug. 27, 2021).

⁸ Energy Conservation Program: Definitions for General Service Lamps; Notice of Proposed Rulemaking and Announcement of Public Meeting, 86 Fed. Reg. 46,611 (Aug. 19, 2021); Energy Conservation Program: Backstop Requirement for General Service Lamps, 86 Fed. Reg. 70,755 (Dec. 13, 2021).

⁹ Energy Conservation Program: Product Classes for Residential Dishwashers, Residential Clothes Washers, and Consumer Clothes Dryers, 85 Fed. Reg. 43,970-71 (Aug. 11, 2021).

will frustrate the progress of the entire program. Prompt final action on rules for light bulbs and gas products is also needed to satisfy the purposes of EO 13990 and advance the President's climate policy.

As President Biden recently acknowledged at the 2021 United Nations Climate Change Conference, this is the decisive decade for climate action. Decisive action requires swift finalization of these rules so that DOE can advance work to update dozens of standards—everything from water heaters to clothes dryers—that are overdue or will become due within the next three years.

DOE has the opportunity to take bold action on appliance standards to save consumers money and greatly reduce CO₂ emissions. Simply put, the benefits of this program are too great for any further delay. DOE must finalize the remaining actions it identified in February 2021 as expeditiously as possible.

Thank you for your consideration of this letter.

Sincerely,

American Council for an Energy-Efficient Economy
Appliance Standards Awareness Project
CLASP
Consumer Federation of America
National Consumer Law Center
Natural Resources Defense Council

cc: Kathleen Hogan
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