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December 5, 2017

MEMORANDUM

TO: Power Committee Members

FROM: Charlie Grist

SUBJECT: Briefing on DOE proposal for revisions to the federal efficiency standards processes

BACKGROUND:

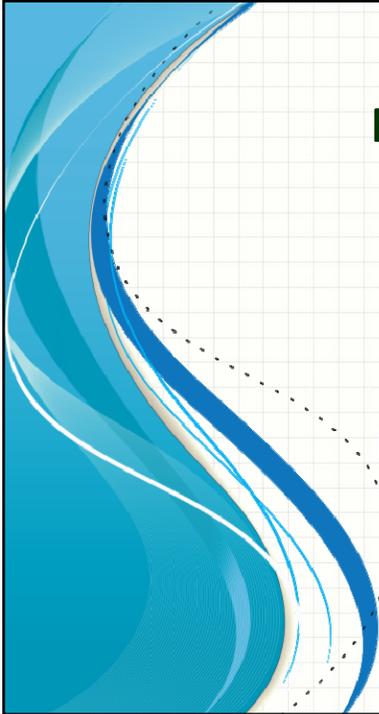
Presenter: Tom Eckman, Senior Advisor

Summary: The US Department of Energy (DOE) has released a proposal to revise the processes for the design, development and enforcement of federal energy efficiency standards. Mr. Eckman will brief the committee on the scope of the proceeding and outline plans to respond. The DOE is seeking comment on revising or eliminating current processes such as direct and final rules, negotiated rulemakings, advanced notice, and test procedures. DOE is also asking for comment on alternative market-based approaches to rulemaking such as CAFÉ-like fleet average standards and “fee-bates”.

Council staff plans to work with Mr. Eckman and stakeholders to identify issues of Council interest and draft potential responses. Proposed comments would be taken up at the February Council meeting.

Relevance: Federal standards have been a key delivery mechanism for cost-effective energy savings. The scope and effectiveness of standards processes are of critical importance to Seventh Power Plan efficiency goals.

Workplan: A.1. Conservation



BRIEFING ON US DOE'S REQUESTS FOR INFORMATION (RFIs) ON ENERGY CONSERVATION STANDARDS DESIGN AND STANDARDS DEVELOPMENT AND ENFORCEMENT POLICIES AND PROCESSES

Tom Eckman, Consultant to the Council
December 12, 2017



Scope of DOE's Request RFI on Standards Program Development and Enforcement Policies and Processes

- Issued in response to two Executive Orders:
 - Reducing Regulation and 2 Regulatory Cost
 - Enforcing Regulatory Reform Agenda
- Scope
 - Review DOE existing policies and procedures (last codified in 1996 in the "Process Rule") for setting standards
 - Develop recommendations for reducing the regulatory burden, while still achieving goals of program
- Comments due February 26, 2018.
- Probably the more critical RFI

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DOE “Process Rule”

- Developed 1994-96 when Congress froze DOE’s appropriations for work in federal standards
- Nine Guiding Policies:
 - Provide for early input from stakeholders
 - Increase predictability of rulemaking timetable
 - Increase the use of outside technical expertise
 - Eliminate problematic design options early
 - Fully consider non-regulatory approaches
 - Conduct thorough analysis of impacts
 - Use transparent and robust analytical methods
 - Articulate policies to guide selection of standards
 - Support efforts to build consensus on standards

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Topics on Which DOE Is Seeking Comment

- Use of Direct Final Rules (DFRs)
 - Authorized under EISA 2007
- Negotiated Rulemaking
 - Authorized under federal Negotiated Rulemaking Act)
- Elimination of Advanced Notice of Proposed Rulemaking (ANOPR)
 - ANOPR eliminated under EISA 2007
- Reliance on Alternative Means to Gather Additional Information Early in Process
 - DOE has evolved effective alternatives
- Application of Process Rule to Commercial Equipment
 - Rule now only applicable to consumer products
- Use of Industry Standards in DOE Test Procedures
 - DOE generally modifies industry procedures, industry would prefer they be adopted without modification
- Timing of Issuance of Test Procedures and Standards
 - Industry would like test procedures finalized before standards

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Scope of DOE's Request RFI on Standards Program Design

- Seeking recommendations on “market-based” alternatives to standard
 - Example – “after fleet level” (CAFÉ-like) standards
 - “Fee-bates” – Tax inefficient products, Credit efficient products (similar to “gas guzzler” tax on cars)
 - Objective
 - Reduce compliance cost
 - Improve consumer choice
 - Preserve or enhance appliance efficiency
- Comments due (90 days after publication in Federal Register ~ early March)

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Topics on Which DOE Is Seeking Comment

- Translation to energy conservation standards
 - How are individual product standards translated into “fleet/market” averages
- Scope of standards
 - What products are included in the same “trading” category
- Normalizing across energy sources
 - If permitted, trading across appliances with different fuel sources would require normalizing energy metrics across fuel types
- Distributional impacts across consumers and manufacturers
 - Even if overall compliance costs decline, the distribution of costs among regulated firms could change, and some firms might face higher costs than under the current program.
- Enforcement
 - Establishment of credit trading would require additional data collection and monitoring to set standards and ensure compliance, well beyond what manufacturers are required to supply and certify to today
- Potential challenges
 - DOE lists three, there are many, many more
- Potential pilot program and assessment
 - Is there a product or equipment type that would be appropriate for such a pilot?
 - Is there a particular industry with a structure more amenable to a market-based pilot than others?

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Proposed Process

- Work with staff to identify issues of Council interest and potential responses to DOE's topics
- Work with other interested stakeholders (NEEA, CEC, Utilities and Appliance Standards Awareness Project) to develop areas of joint interest/concern.
- Draft response for consideration at Council's February meeting
 - May file separate Council response
 - May file joint response with one or more other parties (e.g., NEEA)