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April 27, 2021

DECISION MEMORANDUM

TO: Council members

FROM: Kevin Smit, Senior Analyst
Andrea Goodwin, Senior Counsel

SUBJECT: Discussion and approval of Council response to the Department of Energy's (DOE) Notice of proposed rulemaking (NOPR) regarding proposed revisions to DOE's "Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Certain Commercial/Industrial Equipment" (the "Process Rule").

PROPOSED ACTION: Approve Council comments to DOE regarding the proposed revisions to the Process Rule.

SIGNIFICANCE: The Northwest has effectively utilized federal standards as a key delivery mechanism for cost-effective energy savings, which have been important in meeting efficiency goals. Going forward, appliance efficiency standards may play an even more important role. The Council has been actively engaged in the standards process for over a decade, and the Northwest has benefitted from the results of federal appliance standards.

BUDGETARY/ECONOMIC IMPACTS

None

BACKGROUND

Over the past several years, the Department of Energy (DOE) has undertaken revisions to its Process Rule, beginning first with a request for information in December 2017, a notice of proposed rulemaking in 2019, a final rule in February 2020, and a companion final rule in August 2020. Collectively, the February and August 2020 final rules significantly modified the Process Rule, with the revisions seeking to reduce regulatory burden by implementing a standardized, one-size-fits all, binding rulemaking process upon the agency. The Council submitted comments in response to both the [request for information](#) and the 2019 [proposed rule](#), strongly disagreeing with several of the proposed changes, which were ultimately captured in the 2020 final rules.

In April 2021, DOE issued another Process Rule [NOPR](#), proposing to revise several aspects of the 2020 final rules that, while intended to reduce regulatory burden through a standardized process, resulted in confusion and created obstacles to DOE's ability to meet its obligations under the Energy Policy and Conservation Act (EPCA). Staff reviewed the seven specific recommendations proposed by DOE and staff supports all of DOE's recommendations, many of which address the Council's prior concerns.

Staff circulated draft comments to the Council members by email, with the draft comments providing high-level support for the proposed rule and specific comments in support of each of the seven recommendations. Public comment on the NOPR closes May 27, 2021.