Appliance Standards Awareness Project
American Council for an Energy-Efficient Economy
Consumer Federation of America
Earthjustice
National Consumer Law Center, on behalf of its low-income clients
Natural Resources Defense Council

June 29, 2026

Ms. Clara Wheelock
U.S. Department of Energy
Office of Policy, OP–1
1000 Independence Avenue SW
Washington, DC 20585–0121

RE: Docket Number DOE-HQ-2025-0603. Zero-Based Regulating: Notice of Proposed Rulemaking; Request for Comment

Dear Ms. Wheelock:

This letter constitutes the comments of the Appliance Standards Awareness Project ("ASAP"), American Council for an Energy-Efficient Economy ("ACEEE"), Consumer Federation of America ("CFA"), Earthjustice, National Consumer Law Center, on behalf of its low-income clients ("NCLC"), and Natural Resources Defense Council ("NRDC") on the notice of proposed rulemaking (NOPR) for "Zero-Based Regulating."[1] The proposed rule would insert sunset provisions into certain regulations of the Department of Energy ("DOE" or "the Department"), as directed by Executive Order 14270.[2] We appreciate the opportunity to provide input to DOE on this matter.

The NOPR and associated direct final rule terminate numerous regulations without offering a legal or factual analysis to explain the basis for those actions. These comments, however, focus narrowly on the issues raised by the NOPR that relate to the Energy Policy and Conservation Act ("EPCA"). We first explain why the NOPR is right not to attempt an unlawful sunsetting of any energy conservation standards under EPCA. We then respond to DOE's request for comment with respect to EPCA's anti-backsliding provision.

1. DOE appears to have discerned that there is no lawful path to sunsetting federal energy conservation standards. That is correct. Indeed, that conclusion is compelled by the language of EPCA. EPCA authorizes DOE to promulgate new standards and to prescribe

[1] 91 Fed. Reg. 31985 (May 29, 2026).
[2] Exec. Order No. 14270, 90 Fed. Reg. 15643 (Apr. 15, 2025).

amended standards, but no provision in EPCA authorizes DOE to rescind or terminate existing standards. On the contrary, EPCA's anti-backsliding provision bars the Department from weakening a standard once the standard has been published.[3] Congress prohibited DOE from prescribing "any amended standard which . . . decreases the minimum required energy efficiency, of a covered product."[4] That prohibition applies to any attempt to rescind or terminate a standard. Ending a requirement to comply with a standard would "decrease[] the minimum required energy efficiency" of the covered product.

Adopting a sunset date for a standard is like any other change to a prescribed standard. The anti-backsliding provision applies to all such DOE actions—those that amend the numerical level of a standard, as well as actions that sunset standards or exempt products. Such actions "prescribe [an] amended standard," in that, like changes to numerical levels, they establish authoritatively a formal alteration of an energy conservation standard.[5] Such actions may not "decrease[] the minimum required energy efficiency, of a covered product."[6] Doing so is barred by section 6295(o)(1). It is not plausible that when Congress prohibited DOE from prescribing "any amended standard which . . . decreases the minimum required energy efficiency, of a covered product," Congress nevertheless intended to permit DOE the discretion to end the application of updated standards and thereby revert to weaker, superseded requirements, or no standards at all. The NOPR correctly avoids that unlawful misadventure.

Furthermore, even if EPCA's prohibition on weakening standards were somehow inapplicable here, establishing a sunset date for energy conservation standards would circumvent other substantive and procedural requirements that EPCA applies to the Department's amendment of adopted standards. Under EPCA, DOE may amend energy conservation standards only upon making several prerequisite findings.[7] As DOE well understands, making those findings requires significant analytical effort. The Federal Register entries for energy conservation standards often span more than one hundred pages, are supported by extensive technical support documents, and are the product of many years of effort, typically across multiple administrations.

Beyond that administrative burden, making the findings required for a standard amendment that sunsets an existing requirement would be indefensible on the merits. Most obviously, DOE could not show that terminating a standard would be economically

[3] *See* 42 U.S.C. § 6295(o)(1).
[4] *Id*.
[5] *See* Prescribe, BLACK'S LAW DICTIONARY (12th ed. 2024); Amend, *id*.
[6] 42 U.S.C. § 6295(o)(1).
[7] *See id*. § 6295(o), (p).

justified.[8] In determining whether an amendment is economically justified, DOE must consider, among other things, the impact on "the manufacturers and on the consumers of the products" subject to the amended standard.[9] Each standard DOE has issued is grounded in a determination that it will leave consumers better off,[10] and that the costs that manufacturers will bear will be outweighed by those consumer benefits. Domestic manufacturers have made investments to comply with the extant standards.[11] It would typically require another infusion of capital to respond to a rule authorizing the sale of products that once were proscribed.[12] Meanwhile, foreign manufacturers that don't play by EPCA's rules would be best positioned to take advantage of any backsliding in the EPCA standards.[13] Thus, if DOE were to attempt to justify sunsetting a standard, it could not demonstrate that the benefits of such a repeal exceed the burdens.[14]

2. The fact that sunsetting standards would leave both consumers and manufacturers worse off speaks directly to the issue on which DOE sought comment. DOE's request for comment covers "the effects of EPCA's anti-backsliding provision on technological developments, resource allocations, market forces, and unnecessary intervention into consumer, industrial and energy markets."[15] The regulatory certainty provided by the anti-backsliding provision facilitates technological development by enabling resource allocation decisions that do not need to hedge against the possible rollback of standards.[16] The investments made in reliance on the anti-backsliding provision help manufacturers to

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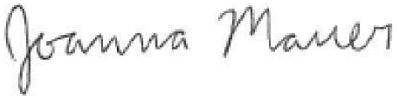
[8] *See id*. § 6295(o)(2)(A), (B).
[9] *Id*. § 6295(o)(2)(B)(i)(I).
[10] *See, e.g.*, DOE Office of Energy Efficiency and Renewable Energy, Appliance Standards Fact Sheet (Mar. 2025), *at* https://www.energy.gov/cmei/buildings/appliance-and-equipment-standards-program (explaining that "In 2024, a typical household saved about $576 per year off their energy and water bills as a result of standards").
[11] *See, e.g.*, Comments of Association of Home Appliance Manufacturers ("AHAM") at 3 (July 15, 2025) (DOE Docket No. EERE-2025-BT-STD-0022-0024) ("Manufacturers have invested heavily in innovating to meet energy conservation standards for clothes washers and to be responsive to consumers' desire for energy and water efficient clothes washers.").
[12] *See, e.g., id*. at 4 ("Not only would investments in efficiency innovation be stranded, but also new investments would be needed to design products that would be responsive to DOE's proposal [to weaken standards].").
[13] *See, e.g.,* Comments of Plumbing Manufacturers International at 3 (July 15, 2025) (DOE Docket No. EERE-2025-BT-STD-0021-0017) ("Redesigning faucets to meet [weakened standards] will put U.S. manufacturers at a competitive disadvantage against foreign competitors who already produce faucets with higher flow rates. Unregulated importers will be able to adapt more easily.").
[14] *See* 42 U.S.C. § 6295(o)(2)(B)(i).
[15] 91 Fed. Reg. at 31987.
[16] *See, e.g.*, Comments of AHAM, *supra* note 11, at 4 (explaining that efforts to roll back standards "create uncertainty for manufacturers," making it "difficult for manufacturers to plan and make business decisions on future investments").

reduce compliance costs and bring down installed costs for consumers, improving the prospects for domestic manufacturers.[17] In sum, the anti-backsliding provision prohibits precisely the type of "unnecessary intervention into consumer, industrial and energy markets" that manufacturers have repeatedly cautioned the Department against.[18]

Thank you for considering these comments.

Sincerely,



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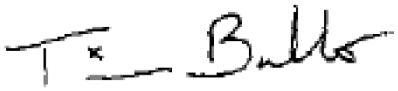

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[17] *See, e.g.,* Comments of National Electrical Manufacturers Association at 2 (July 15, 2025) (DOE Docket No. EERE-2025-BT-STD-0017-0025) (DOE's standards establish "a minimum product performance floor that benefits American consumers and businesses alike. Rescission of [a standard] would eliminate this floor and create a race to the bottom for cost and performance without benefit to anyone.").

[18] *See, e.g.*, Comments of AHAM, *supra* note 11, at 3 (cautioning that the result of DOE's proposed weakening of a standard "would be millions of dollars in stranded investments and now obsolete innovation, as manufacturers would essentially be required to abandon these innovations in efficiency").