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Built Environment Today

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Sheila J. Hayter, P.E., FASHRAE
President

Reply to: Nat'l Renewable Energy Lab
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May 6, 2019

Ms. Sofie Miller
U.S. Department of Energy
Office of Energy Efficiency and Renewable Energy
1000 Independence Avenue SW
Room 6A-013
Washington, DC 20585
E-mail: *Process.Rule@ee.doe.gov*

Re: Process Rule NOPR
Document # EERE-2017-BT-STD-0062
Regulatory Information Number (RIN) 1904-AD38
Docket ID No. EERE-2017-BT-STD-0062

Dear Ms. Miller:

ASHRAE appreciates the opportunity to submit comments to the U.S. Department of Energy on its Energy Conservation Program for Appliance Standards: Proposed Procedures for Use in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment (the "Proposed Process Rule").

ASHRAE, founded in 1894, is a technical society advancing human well-being through sustainable technology for the built environment. The Society and its more than 57,000 individual members worldwide focus on building systems, energy efficiency, indoor air quality, refrigeration and sustainability. Through research, standards writing, publishing, certification and continuing education, ASHRAE shapes tomorrow's built environment today.

We appreciate DOE's work to develop energy conservation standards and test procedures for more than 60 residential, commercial, and industrial products and equipment. DOE's work over the past several decades has resulted in tremendous energy savings as well as operational cost savings. ASHRAE supports these efforts. ASHRAE also appreciates DOE's current work to modernize the process by which these standards are set in order to increase transparency, improve consistency, and save taxpayer money.

ASHRAE writes voluntary consensus-based standards in its fields of expertise to guide industry in the delivery of goods and services to the public. ASHRAE standards include recommended practices in designing and installing equipment, describe uniform methods of testing for rating purposes, and provide other information to guide the industry. ASHRAE has some 87 active standards and guideline project committees, addressing such broad areas as indoor air quality, thermal comfort, energy conservation in buildings, reducing refrigerant emissions, and the designation and safety classification of refrigerants. ASHRAE's standard development process is rigorous, and it is one of only six standards-developing organizations in the U.S. that can self-certify that its standards have followed procedures established by the American National Standards Institute (ANSI). ASHRAE's consensus standards are developed through the participation of any and all interested and affected stakeholders; importantly these participants do not need to be ASHRAE members. ASHRAE is proud of its consensus-based standards setting process, which is transparent, balanced, robust, and accredited by ANSI.

ANSI/ASHRAE/IES Standard 90.1, Energy Standard for Buildings Except Low-Rise Residential Buildings ("ASHRAE Standard 90.1") has been a benchmark for commercial building energy codes in the United States and a key basis for codes and standards around the world for more than 35 years. ASHRAE's most recently published Standard 90.1-2016 reflects a process by which ASHRAE received 268 comments from 108 distinct commenters over the course of a three-year period. All proposed changes to ASHRAE Standard 90.1 are open for public review, which allows interested parties to give input into development of the standard and reach consensus, ensuring publication of a document that has been rigorously examined, questioned and defended. ASHRAE's consensus process ensures buy-in and reflects input from energy advocates, building owners, design professionals, utilities, manufacturers, representatives from DOE, and other materially affected and interested parties. Compared to a building built using ASHRAE Standard 90-1975, a building built to ASHRAE Standard 90.1-2016 will use less than half the energy. The committee that oversees the development of this standard, Standing Standard Project Committee 90.1, has done an amazing job for almost 45 years.

ASHRAE stands behind its standards development process, and is proud of the robust results from this process. As such, we support DOE's clarification in its Proposed Process Rule with regard to equipment covered by ASHRAE Standard 90.1. We appreciate DOE's tentative determination that it will include a "new section [in the Process Rule] that clearly delineates the procedure DOE will follow for evaluating amendments to ASHRAE Standard 90.1 and conducting related rulemakings." In particular, we support DOE's desire to adhere to its statutory obligations, and to reiterate those obligations for ASHRAE equipment. Considering the clear statutory intent of the Energy Policy and Conservation Act (EPCA), we have been disappointed that DOE in the past has proposed rules more stringent than ASHRAE Standard 90.1 without the supporting clear and convincing evidence required by statute; this has circumvented the ASHRAE process where evidence and information are considered during the rigorous standard development process. ASHRAE appreciates DOE's tentative position that it will only consider standards more stringent than the ASHRAE levels if it can meet "a very high bar to demonstrate the 'clear and convincing

evidence' threshold" mandated by EPCA. We also support DOE's tentative decision that, "going forward, DOE anticipates adopting the revised ASHRAE levels as contemplated by EPCA, except in very limited circumstances." We agree with DOE's assessment that "adopting the amended ASHRAE Standard 90.1 level(s) as its regular practice will result in reducing the regulatory burden on stakeholders and will promote consistency and simplicity when DOE is addressing ASHRAE equipment."

Some commenters have argued that DOE's reliance on privately-developed consensus standards such as ASHRAE's rely too heavily on industry, which may create potential conflicts of interest. We disagree. ASHRAE is a technical society and its standards development process is open to all, and its fairness, due process and transparency are ensured by our ANSI accreditation. We emphasize that one does not need to be an ASHRAE member to participate in the ASHRAE standards development process. Anyone may submit a continuous maintenance change proposal to ASHRAE for any standard on continuous maintenance, which includes ASHRAE Standard 90.1. The Committee must act upon the proposal within 13 months of receipt to ensure that all proposals are considered in a timely fashion. Further, anyone can comment on any standard open to public review and participate in meetings of the consensus bodies.

The 47 voting members on SSPC 90.1 have broad representation. Of the 19 voting members from the Industry interest category, only nine come from the industries that have a material interest in products covered by potential DOE regulation. The remaining Industry interest category members represent building envelope material manufacturers (5 voting members), and lighting equipment representatives (5 voting members).

Further, Congress itself through the National Technology Transfer and Advancement Act has directed federal agencies to adopt voluntary industry consensus standards unless inconsistent with the law or impracticable. Since 1998, the Executive Office of the President has supported this statute through issuing and re-issuing Office of Management and Budget (OMB) Circular A-119, which mandates administrative agencies to rely on consensus. EPCA and the Proposed Process Rule are consistent with these directives, which have served the public well.

ASHRAE also supports DOE's proposal that the Process Rule will be binding on DOE. Without this requirement, the public, industry, and other concerned stakeholders will have no idea how DOE is moving forward with rulemakings or setting priorities. Having a clear and consistent process is one that ASHRAE supports.

In closing, we want to reiterate that ASHRAE's standard development process is rigorous, balanced, transparent, open, and results in robust standards that benefit the public. We look forward to continued engagement in this rulemaking, and we welcome any follow-up questions about ASHRAE's standards development process, ASHRAE Standard 90.1, or other technical matters. Thank you again for your consideration of our comments.

Sincerely,

A handwritten signature in black ink that reads "Sheila J. Hayter". The signature is written in a cursive style with a large initial 'S' and 'H'.

Sheila J. Hayter
President