

**Testimony of Daniel R Simmons
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Office of Energy Efficiency and Renewable Energy
Department of Energy
Before the
Subcommittee on Interior, Energy and Environment
and the
Subcommittee on Intergovernmental Affairs
of the
House Oversight and Government Reform Committee**

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Chairs Farenthold and Palmer, Ranking Members Plaskett and Demings and members of both subcommittees, thank you for the opportunity to testify today and your interest in regulatory reform at the Department of Energy. DOE is committed to reducing unnecessary, unreasonable, duplicative, and outdated regulatory burdens on American families and businesses.

Earlier this year, the President issued several executive orders that have guided our regulatory reform efforts. On January 30, 2017, the President issued Executive Order 13771, "Reducing Regulation and Controlling Regulatory Costs." This Order requires that, unless prohibited by law, whenever an agency promulgates a new regulation, the agency must identify at least two existing regulations to be repealed. The Order also requires that for fiscal year 2017, the total incremental net cost of all new regulations, including repealed regulations, be no greater than zero, and that for fiscal year 2018 and thereafter, there be agency specific "regulatory budgets."

Additionally, on February 24, 2017, the President issued Executive Order 13777, "Enforcing the Regulatory Reform Agenda." This Order requires the head of each agency to designate an agency official as its Regulatory Reform Officer (RRO) and that each agency establish a Regulatory Reform Task Force. Finally, on March 28, 2017, the President signed Executive Order 13783, entitled "Promoting Energy Independence and Economic Growth. Among other things, EO 13783 requires the heads of agencies to review all existing regulations, orders, guidance documents, policies, and any other similar agency actions that potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources.

Request for Information

Following the directions in these Orders, DOE formed a Regulatory Reform Task Force. The DOE Chief of Staff was designated as the RRO, and the Chief of Staff delegated those responsibilities

to me, the Principal Deputy Assistant Secretary in the Office of Energy Efficiency and Renewable Energy (EERE). To inform the work of the Task Force, DOE published a Request for Information (or “RFI”) in the Federal Register on May 30, seeking input from the public and those significantly affected by DOE regulations. DOE received 132 separate comments from businesses, trade associations, advocacy groups, and other interested stakeholders and members of the public.

DOE has also established a dedicated email box – Regulatory.Review@hq.doe.gov – through which interested parties can communicate their regulatory reform ideas to DOE on an ongoing basis. In addition, upon request, DOE has met with interested parties seeking to provide input on DOE’s regulatory reform activities. DOE’s goal in taking these steps is to create a systematic method for identifying existing DOE rules that are obsolete, unnecessary, unjustified, or simply no longer make sense.

DOE knows that members of the public subject to our regulations are the ones most likely to have useful information and perspectives on the benefits and burdens of those requirements, as well as how regulatory obligations can be reformed to meet the Department’s statutory obligations while minimizing regulatory burdens. DOE will use the comments on the RFI, the meetings already held, and the input that continues to be received, to determine how to best conduct an analysis of existing DOE rules for potential reform, and develop insights on specific rules or Department-imposed obligations that should be altered or eliminated.

For any existing rule where DOE determines that modification or repeal would further the Department’s regulatory reform goals, DOE will, following all legal requirements, conduct and encourage public participation in all necessary rulemaking steps. These steps could include soliciting comment on an RFI or a notice of proposed rulemaking, or participating in a negotiated rulemaking process, as appropriate.

Regulatory Reform Task Force Recommendations

On October 24, Secretary Perry sent a report to the White House detailing the Task Force’s findings in response to EO 13783 on energy independence. This report was also published online¹. The findings contained in the report are based on a review of the input received from the public, coupled with the work of the Task Force to identify internal and external agency actions that could potentially burden the development or use of domestically produced energy resources, as per EO 13783. DOE’s Task Force made the following recommendations:

1) Streamline Natural Gas Exports

Several commenters encouraged DOE to expedite exports of liquefied natural gas (LNG).

¹ <https://www.energy.gov/sites/prod/files/2017/10/f38/EXEC-2017-003431%20Final%20EO%2013783%20dated%2010-24-17.pdf>

On September 1, DOE issued a proposed rule to provide faster approval of small-scale natural gas exports, including LNG. This measure will expedite the review and approval of applications to export small amounts of natural gas in the emerging small-scale LNG export market, and will facilitate the development of that market. The comment period for that proposed rule closed on October 16. DOE is currently reviewing the comments received and plans to complete the rulemaking in the near future.

2) Review National Laboratory Policies

DOE manages several National Laboratories that support the Department's energy, science, and nuclear non-proliferation missions. As part of our work to reduce regulatory burdens, the Task Force conducted a comprehensive review of operations and procedures at the National Labs, and identified several areas for reform that would permit the National Laboratories to operate more efficiently, focusing more time and resources on their mission-critical work.

3) Review National Environmental Policy Act (NEPA) Regulations

DOE received comments that called for streamlining and simplifying the agency's regulations and internal operations related to the National Environmental Policy Act (NEPA). The goal is to improve the effectiveness and efficiency of DOE's compliance with NEPA in reviewing and approving permits and other regulatory activities.

4) Review the DOE Appliance Standards Program

As required by statute, DOE implements minimum energy conservation standards and separate test procedures for more than 60 categories of appliances. The majority of the comments received from the public, both in response to the RFI and in meetings, concerned (1) existing DOE energy conservation standards and test procedure regulations, and (2) the procedures DOE follows for issuing those regulations.

Many commenters asked DOE to follow and review the so-called "Process Rule." The Process Rule describes the procedures, interpretations, and policies that guide DOE in establishing new or revised energy-efficiency standards for consumer products. DOE will consider issuing an RFI to gather additional feedback from stakeholders on how to amend or improve the Process Rule.

The Task Force has learned that many stakeholders are concerned with the current, statutorily required six-year review process for energy efficiency standards. These commenters believe the current review process may not provide adequate time for a retrospective analysis, which is critical to determine whether energy conservation standards are working as intended and the underlying assumptions are sound. In the absence of statutory changes to the six-year review period, DOE will consider "no amended standards" determinations when supported by the statute and data and when

more stringent standards are not technologically feasible and economically justified. DOE will also consider voluntary, non-regulatory, and market-based alternatives to standards-setting when supported by the statute. To this end, DOE published a RFI on November 28, 2017 seeking comment on potential market-based approaches, such as those used to set average fuel efficiency standards for vehicles, that may reduce compliance costs and increase consumer choice while preserving or enhancing appliance energy efficiency. Finally, DOE will refrain from enacting standards through the statutory mechanism known as a “direct final rule.”

DOE will continue to engage with the public on the regulatory reform process, as we work to achieve the President’s goals to reduce burdens on American families and businesses. As DOE identifies additional specific agency actions for reform, the Department will provide more opportunities for public participation, consistent with DOE’s commitment to an open, transparent, and accountable rulemaking process.

I appreciate the opportunity to testify here today to explain DOE’s efforts to achieve meaningful regulatory reform. I look forward to answering any questions. Thank you.

Daniel R. Simmons Biography

In his role as Principal Deputy Assistant Secretary in the Office of Energy Efficiency and Renewable Energy (EERE), Daniel Simmons leads EERE to achieve its vision of a strong and prosperous America powered by clean, affordable, and secure energy. He oversees technology development in the energy efficiency, renewable power and sustainable transportation sectors.

Daniel served as the Institute for Energy Research's Vice President for Policy, overseeing its energy and environmental policy work at the state and federal level.

He previously served as director of the Natural Resources Task Force at the American Legislative Exchange Council, was a research fellow at the Mercatus Center, and worked as professional staff on the Committee on Resources of the U.S. House of Representatives.

He is a graduate of Utah State University and George Mason University School of Law.