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June 17, 2014

The Honorable Mary L. Landrieu
Chair
The Honorable Lisa Murkowski
Ranking Member
Committee on Energy and Natural Resources
United States Senate

The Honorable Fred Upton
Chairman
The Honorable Henry A. Waxman
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Department of Energy: Energy Conservation Program: Energy Conservation Standards for Walk-In Coolers and Freezers*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Energy (Energy) entitled "Energy Conservation Program: Energy Conservation Standards for Walk-In Coolers and Freezers" (RIN: 1904-AB86). We received the rule on June 3, 2014. It was published in the *Federal Register* as a final rule on June 3, 2014. 79 Fed. Reg. 32,050.

The final rule adopts energy conservation standards for some classes of walk-in cooler and walk-in freezer components that the Department of Energy has determined are technologically feasible, economically justified, and would result in the significant conservation of energy. The final rule is effective August 4, 2014, and compliance with the amended standards established in the final rule is required on June 5, 2017.

Enclosed is our assessment of Energy's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that Energy complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Daniel Cohen
Assistant General Counsel for Legislation,
Regulation and Energy Efficiency
Department of Energy

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF ENERGY
ENTITLED
"ENERGY CONSERVATION PROGRAM:
ENERGY CONSERVATION STANDARDS FOR
WALK-IN COOLERS AND FREEZERS"
(RIN: 1904-AB86)

(i) Cost-benefit analysis

Energy prepared a cost-benefit analysis in conjunction with the final rule. Energy found that the benefits to the nation from the standards, which include energy savings, consumer life-cycle cost (LCC) savings, positive net present value of consumer benefit, and emission reductions, outweigh the burdens, which include loss of industry net present value (INPV) and LCC increases for some users of this equipment.

Energy prepared estimates of annualized benefits and costs of the final rule. Using a 7 percent discount rate for benefits and costs other than carbon dioxide (CO₂) reduction, for which Energy used a 3 percent discount rate along with the average social cost of carbon (SCC) series that uses a 3 percent discount rate, the cost of the standards in this rule is \$511 million per year in increased equipment costs, while the benefits are \$879 million per year in reduced equipment operating costs, \$287 million in CO₂ reductions, and \$16.93 million in reduced nitrogen oxides (NO_x) emissions. In this case, the net benefit amounts to \$671 million per year. Using a 3 percent discount rate for all benefits and costs and the average SCC series, the cost of the standards in this rule is \$528 million per year in increased equipment costs, while the benefits are \$1,064 million per year in reduced operating costs, \$287 million in CO₂ reductions, and \$19.82 million in reduced NO_x emissions. In this case, the net benefit amounts to \$842 million per year.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

Energy certified that the final rule would not have a significant impact on small businesses with respect to the walk-ins panel industry or the refrigeration equipment industry. Energy certified that the final rule would not have a significant impact on a large number of small entities with respect to the door industry, but it prepared a complete regulatory flexibility analysis with regard to the door industry.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

Energy determined that the final rule would likely require expenditures of \$100 million or more on the private sector. Energy responded to the requirement to prepare a cost-benefit analysis relative to the private sector mandate as part of its cost-benefit analysis noted above. In addition, Energy determined that it selected the alternative that was the most cost-effective and least burdensome alternative that achieved the objectives of the rule.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On September 11, 2013, Energy published a notice of proposed rulemaking in the *Federal Register*. 78 Fed. Reg. 55,781. Energy held a public meeting in Washington, D.C., on October 9, 2013, to receive oral comments. Energy responded to the comments received at the public hearing and in response to the notice of proposed rulemaking in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

The final rule contains collection of information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910-1400. Energy estimated that the public reporting burden for the certification will average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Statutory authorization for the rule

The final rule is authorized by the Energy Policy and Conservation Act of 1975, as amended, as codified at 42 U.S.C. §§ 6311-17 and 6295(o).

Executive Order No. 12,866 (Regulatory Planning and Review)

Energy determined that the final rule is an “economically significant rule” for purposes of the Executive Order. As a result, Energy prepared a regulatory impact analysis for the rule and submitted the rule to OMB for review.

Executive Order No. 13,132 (Federalism)

The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the states and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications. Energy has a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations, which was published in the *Federal Register* on March 14, 2000. 65 Fed. Reg. 13,735. EPCA governs and prescribes federal preemption of state regulations as to energy conservation for the equipment that are the subject of the final rule, and sets forth criteria by which states can petition Energy for exemption from such preemption. 42 U.S.C. § 6297.