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B-326631

February 10, 2015

The Honorable Lisa Murkowski  
Chairman  
The Honorable Maria Cantwell  
Ranking Member  
Committee on Energy and Natural Resources  
United States Senate

The Honorable Fred Upton  
Chairman  
The Honorable Frank Pallone, Jr.  
Ranking Member  
Committee on Energy and Commerce  
House of Representatives

Subject: *Department of Energy: Energy Conservation Program: Energy Conservation Standards for Automatic Commercial Ice Makers*

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 (DOE) entitled “Energy Conservation Program: Energy Conservation Standards for Automatic Commercial Ice Makers” (RIN: 1904-AC39). We received the rule on January 28, 2015. It was published in the *Federal Register* as a final rule on January 28, 2015, with a stated effective date of March 30, 2015. 80 Fed. Reg. 4646.

The final rule adopts more-stringent energy conservation standards for some classes of automatic commercial ice makers as well as establishes energy conservation standards for other classes of automatic commercial ice makers. DOE has determined that the amended energy conservation standards for these products would result in significant conservation of energy and are technologically feasible and economically justified.

Enclosed is our assessment of DOE’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 DOE 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 AUTOMATIC COMMERCIAL ICE MAKERS"  
(RIN: 1904-AC39)

(i) Cost-benefit analysis

The Department of Energy (DOE) evaluated the benefits and costs to customers, the impact on manufacturers, and the national benefits and costs of this final rule. For customers, DOE found that the average life-cycle cost (LCC) savings were positive for all equipment classes for which customers were impacted by the new standards. Using a real discount rate of 9.2 percent, DOE estimated that the industry net present value (NPV) for manufacturers of automatic commercial ice makers is \$121.6 million in 2013 dollars. Under the amended standards, DOE expects that manufacturers may lose up to 12.5 percent of their industry NPV, or approximately \$15.1 million.

DOE estimates that this final rule will result in energy savings of 8 percent for automatic commercial ice makers. The cumulative national NPV of total customer savings of the amended standards for automatic commercial ice makers in 2013 dollars ranges from \$430 million (at a 7 percent discount rate) to \$942 million (at a 3 percent discount rate). This NPV expresses the estimated total value of future operating cost savings minus the estimated increased installed costs for equipment purchased in the period from 2018–2047, discounted back to 2014. In addition, DOE expects the amended standards to have significant environmental benefits. The energy savings described above are estimated to result in cumulative emission reductions of 10.9 million metric tons of carbon dioxide, 16.2 thousand tons of nitrogen oxides, 0.1 thousand tons of nitrous oxide, 47.4 thousand tons of methane, 0.03 tons of mercury, and 9.3 thousand tons of sulfur dioxide based on energy savings from equipment purchased over the period from 2018–2047. DOE estimates the net present monetary value of the carbon dioxide emissions reduction is between \$0.08 and \$1.11 billion, expressed in 2013 dollars and discounted to 2014.

Based on these analyses, DOE found the benefits to the nation of the amended standards (energy savings, consumer LCC savings, positive NPV of consumer benefit, and emission reductions) outweigh the burdens (loss of industry NPV and LCC increases for some users of this equipment). DOE has concluded that the standards in this final rule represent the maximum improvement in energy efficiency that is both technologically feasible and economically justified and would result in significant conservation of energy.

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

DOE performed a final regulatory flexibility analysis on this final rule. This analysis included (1) a description and estimated number of small entities regulated; (2) a description and estimate of compliance requirements; (3) a description of any duplication, overlap, and conflict with other rules and regulations; (4) significant alternatives to the rule; and (5) responses to small business comments and comments from the Office of Advocacy.

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

DOE has concluded that this final rule would likely require expenditures of \$100 million or more on the private sector. Such expenditures may include: (1) investment in research and development and in capital expenditures by automatic commercial ice maker manufacturers in the years between the final rule and the compliance date for the new standards, and (2) incremental additional expenditures by consumers to purchase higher-efficiency automatic commercial ice makers, starting at the compliance date for the applicable standard.

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

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

DOE initiated this rulemaking by publishing on its website “Rulemaking Framework for Automatic Commercial Ice Makers” on November 4, 2010. 75 Fed. Reg. 70,852 (Nov. 19, 2010). DOE held public meetings on the framework on December 16, 2010, and February 16, 2012. 75 Fed. Reg. 70,852 (Nov. 19, 2010); 77 Fed. Reg. 3404 (Jan. 24, 2012). DOE also requested and received comments on the framework. On March 17, 2014, DOE published a proposed rule. 79 Fed. Reg. 14,846. DOE held another public meeting on April 14, 2014, and on September 11, 2014, DOE published a notice of data availability. 79 Fed. Reg. 54,215.

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

DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including commercial refrigeration equipment. 76 Fed. Reg. 12,422 (Mar. 7, 2011). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by the Office of Management and Budget (OMB) under the Act. This requirement has been approved by OMB under OMB Control Number 1910–1400. Public reporting burden for the certification is estimated to 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

DOE promulgated this final rule under the authority of sections 6291 to 6317 of title 42, United States Code.

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

DOE determined that this final rule is economically significant under the Order and presented it to OMB for review.

Executive Order No. 13,132 (Federalism)

On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of regulations. 65 Fed. Reg. 13,735. The Energy Policy and Conservation Act of 1975, as amended, (EPCA) governs and prescribes federal preemption of state regulations as to energy conservation for the products that are the subject of this final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. 42 U.S.C. § 6297. DOE determined that no further action is required by the Order.