



U.S. GOVERNMENT ACCOUNTABILITY OFFICE

441 G St. N.W.
Washington, DC 20548

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August 16, 2023

The Honorable Joe Manchin
Chairman
The Honorable John Barrasso
Ranking Member
Committee on Energy and Natural Resources
United States Senate

The Honorable Cathy McMorris Rodgers
Chair
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 Electric Motors*

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 Electric Motors” (RIN: 1904-AE63). We received the rule on June 8, 2023. It was published in the *Federal Register* as a direct final rule on June 1, 2023. 88 Fed. Reg. 36066. The effective date is September 29, 2023.

According to DOE, this direct final rule adopts new and amended energy conservation standards for electric motors. DOE stated that the Energy Policy and Conservation Act, as amended¹ (EPCA), prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including electric motors. DOE noted that EPCA also requires the agency to periodically determine whether more stringent standards would be technologically feasible and economically justified, and would result in significant energy savings. DOE expressed that in this direct final rule, the agency is adopting new and amended energy conservation standards for electric motors. DOE stated that it has determined that the new and 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. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to

¹ Pub. L. No. 94-163, 89 Stat. 8 (Dec. 22, 1975); 42 U.S.C. §§ 6201 *et seq.* In the footnotes to the rule, DOE clarified that all references to EPCA in the rule refer to the statute as amended through the Energy Act of 2020, Pub. L. No. 116-260, 134 Stat. 2418 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A-1 of EPCA.

the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is fluid and cursive, with "Shirley" on the top line and "A. Jones" on the bottom line.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Ami Grace-Tardy
Assistant General Counsel
Legislation, Regulation & 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 ELECTRIC MOTORS”
(RIN: 1904-AE63)

(i) Cost-benefit analysis

The Department of Energy (DOE) conducted an economic analysis of this direct final rule. DOE stated that the benefits and costs of the adopted standards can be expressed in terms of annualized values. According to DOE, the annualized net benefit is (1) the annualized national economic value (expressed in 2021 U.S. dollars) of the benefits from operating equipment that meet the adopted standards (consisting primarily of operating cost savings from using less energy, minus increases in equipment purchase costs), and (2) the annualized monetary value of the climate and health benefits from emission reductions.

DOE estimated that using a 7-percent discount rate for consumer benefits and costs and nitrogen oxides and sulfur dioxide reduction benefits, and a 3-percent discount rate case for greenhouse gases social costs, the estimated cost of the standards for electric motors is \$62.1 million per year in increased equipment costs, while the estimated annual benefits are \$254.8 million in reduced equipment operating costs, \$164.8 million in climate benefits, and \$151.4 million in health benefits. In this case, DOE calculated that the net benefit amounts to \$508.9 million per year.

DOE estimated that using a 3-percent discount rate for all benefits and costs, the estimated cost of the standards for electric motors is \$71.0 million per year in increased equipment costs, while the estimated annual benefits are \$463.6 million in reduced operating costs, \$164.8 million in climate benefits, and \$300.7 million in health benefits. In this case, DOE calculated that the net benefit amounts to \$858.2 million per year.

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

According to DOE, the agency is not obligated to prepare a regulatory flexibility analysis for this direct final rule because there is not a requirement to publish a general notice of proposed rulemaking under the Administrative Procedure Act. See 5 U.S.C. §§ 601(2), 603(a). DOE stated that it is issuing the rule under the procedures in 42 U.S.C. § 6295(p)(4). DOE also noted that the Notice of Proposed Rulemaking (NOPR) for energy conservation standards for electric motors contains an initial regulatory flexibility analysis. 88 Fed. Reg. 35765.

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

According to DOE, this direct final rule may require expenditures of \$100 million or more in any one year by the private sector. Expenditures may include (1) investment in research and development and in capital expenditures by electric motor manufacturers in the years between

the direct final rule and the compliance date for the new standards, and (2) incremental additional expenditures by consumers to purchase higher-efficiency electric motors, starting at the compliance date for the applicable standard.

DOE stated that section 202 of the Act authorizes a federal agency to respond to the content requirements of the Act in any other statement or analysis that accompanies the direct final rule. 2 U.S.C. § 1532(c). According to DOE, the content requirements of section 202(b) of the Act relevant to a private sector mandate substantially overlap with the economic analysis requirements that apply under section 325(o) of the Energy Policy and Conservation Act² (EPCA) and Executive Order 12866. DOE stated that the “Supplementary Information” section of the rule and the technical support document for the rule respond to those requirements.

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

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

According to DOE, there is not a requirement to publish a general notice of proposed rulemaking under the Act for this direct final rule. DOE stated that with this rule, as required by 42 U.S.C. § 6295(p)(4)(A)(i), the agency is simultaneously publishing a NOPR proposing that the identical standard levels contained in the rule be adopted. DOE expressed that, consistent with EPCA, it is providing a 110-day public comment period for the rule. 42 U.S.C. § 6295(p)(4)(B). DOE clarified that if the agency determines that any comments received provide a reasonable basis for withdrawal of the direct final rule under 42 U.S.C. § 6295(o), DOE will continue the rulemaking under the simultaneously published NOPR. 42 U.S.C. § 6295(p)(4)(C).

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

DOE stated that Office of Management and Budget (OMB) Control Number 1910-1400, Compliance Statement Energy/Water Conservation Standards for Appliances, is currently valid and assigned to the certification reporting requirements applicable to covered equipment, including electric motors. According to DOE, new certification data would be required for electric motors if this direct final rule were to be finalized as proposed; however, DOE clarified that it is not proposing new or amended certification or reporting requirements for electric motors in this direct final rule. Instead, DOE expressed that it may consider proposals to establish certification requirements and reporting for electric motors under a separate rulemaking regarding appliance and equipment certification. DOE specified that it will address changes to OMB Control Number 1910-1400 at that time, as necessary.

Statutory authorization for the rule

DOE promulgated this direct final rule pursuant to sections 6291–6317 of title 42, and section 2461 note of title 28, United States Code.

² Pub. L. No. 94-163, 89 Stat. 8 (Dec. 22, 1975); 42 U.S.C. §§ 6201 *et seq.* In the footnotes to the rule, DOE clarified that all references to EPCA in the rule refer to the statute as amended through the Energy Act of 2020, Pub. L. No. 116-260, 134 Stat. 2418 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A-1 of EPCA.

Executive Order No. 12866 (Regulatory Planning and Review)

In this direct final rule, DOE stated that the Office of Information and Regulatory Affairs (OIRA) in OMB has determined that the rule constitutes a significant regulatory action within the scope of the Order. Pursuant to the Order, DOE stated that it has provided OIRA with an assessment of benefits and costs anticipated from the rule, together with, to the extent feasible, a quantification of those costs; and an assessment of costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation, and an explanation why the planned regulatory action is preferable to the identified potential alternatives.

Executive Order No. 13132 (Federalism)

DOE determined that that this direct final rule would not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government within the meaning of the Order.