



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

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May 8, 2024

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 Distribution Transformers*

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 Distribution Transformers” (RIN: 1904-AE12). We received the rule on April 29, 2024. It was published in the *Federal Register* as a final rule on April 22, 2024. 89 Fed. Reg. 29834. The effective date is July 8, 2024.

According to DOE, the Energy Policy and Conservation Act, as amended¹ (EPCA), prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including distribution transformers. In this final rule, DOE stated that it is adopting amended energy conservation standards for distribution transformers. DOE has explained that it 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. 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. 871, 969 (Dec. 22, 1975), *codified at* 42 U.S.C. §§ 6291–6317. In the footnotes to this final 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. 1182, 3305 (Dec. 27, 2020), which reflects the last statutory amendments that impact Parts A and A-1 of EPCA.

the subject matter of the rule, please contact Charlie McKiver, Assistant General Counsel, at (202) 512-5992.

A handwritten signature in cursive script that reads "Shirley A. Jones".

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Ami Grace-Tardy
Assistant General Counsel for 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 DISTRIBUTION TRANSFORMERS”
(RIN: 1904-AE12)

(i) Cost-benefit analysis

The Department of Energy (DOE) conducted a cost-benefit analysis of this final rule. This analysis included a discussion of the rule’s benefits and costs to consumers of distribution transformers, the rule’s impact on manufacturers, and the rule’s national benefits and costs. 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 gas social costs, DOE estimated the cost of the standards for distribution transformers is \$230.3 million per year in increased product costs, while the estimated annual benefits are \$512.9 million in reduced product operating costs, \$182.4 million in climate benefits, and \$204.1 million in health benefits. According to DOE, the net benefit of the rule amounts to \$669.1 million per year. DOE noted that the net benefits are substantial even in the absence of the climate benefits, and that it would adopt the same standards in the absence of such benefits.

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

DOE prepared a Final Regulatory Flexibility Analysis. The analysis included (1) a statement of the need for and objectives of the rule, (2) a description of significant issues raised by public comments on the initial regulatory flexibility analysis, (3) a description and estimated number of the small entities subject to the rule, (4) projected reporting, recordkeeping, and other compliance requirements, and (5) a description of significant alternatives considered and agency actions to minimize significant economic impacts on small entities.

(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 may require expenditures of \$100 million in 1995 dollars, updated annually for inflation, or more in any one year by the private sector. Such expenditures may include investment in research and development and additional expenditures by consumers to purchase higher-efficiency distribution transformers. DOE stated that it responded to the content requirements of the Act in the supplementary information section and technical support document of the rule. DOE explained that it considered six alternatives to the new standards, evaluating each alternative’s ability to achieve significant energy savings at a reasonable cost and comparing each alternative to the rule’s standards. DOE stated that the rule establishes standards that are designed to achieve the maximum improvement in energy efficiency that DOE has determined to be technologically feasible and economically justified, as required by 42 U.S.C. § 6295(o)(2)(A).

(iv) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 amended 5 U.S.C. § 801(a)(2)(A) to require GAO to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO’s major rule reports. In guidance to Executive Branch agencies, issued on September 1, 2023, the Office of Management and Budget (OMB) instructed that agencies should include a statement explaining that either: “the Act does not apply to this rule because it does not increase direct spending; the Act does not apply to this rule because it meets one of the Act’s exemptions (and specifying the relevant exemption); the OMB Director granted a waiver of the Act’s requirements pursuant to section 265(a)(1) or (2) of the Act; or the agency has submitted a notice or written opinion to the OMB Director as required by section 263(a) or (b) of the Act” in their submissions of rules to GAO under the Congressional Review Act. OMB, *Memorandum for the Heads of Executive Departments and Agencies*, Subject: Guidance for Implementation of the Administrative Pay-As-You-Go Act of 2023, M-23-21 (Sept. 1, 2023), at 11–12. OMB also states that directives in the memorandum that supplement the requirements in the Act do not apply to proposed rules that have already been submitted to the Office of Information and Regulatory Affairs, however agencies must comply with any applicable requirements of the Act before finalizing such rules.

DOE did not discuss the Act in the final rule or in its submission to us.

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

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

On January 11, 2023, DOE published a proposed rule. 88 Fed. Reg. 1722. DOE received 93 comments from utilities, trade associations, manufacturers, efficiency organizations, and elected officials, among other interested parties. DOE addressed comments in this final rule.

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

DOE determined that this final rule contains information collection requirements under the Act. According to DOE, this requirement has been approved by OMB under OMB Control Number 1910-1400. The public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data, and completing and reviewing the collection of information.

Statutory authorization for the rule

DOE promulgated this final rule pursuant to sections 6291–6317 of title 42, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

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

Executive Order No. 13132 (Federalism)

DOE has determined that this final rule will 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.