



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

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May 15, 2026

The Honorable Mike Lee
Chairman
The Honorable Martin Heinrich
Ranking Member
Committee on Energy and Natural Resources
United States Senate

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

Subject: *Department of Energy: Petroleum-Equivalent Fuel Economy Calculation*

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 “Petroleum-Equivalent Fuel Economy Calculation” (RIN: 1904-AF47). We received the rule on April 30, 2026. It was published in the *Federal Register* on February 19, 2026. 91 Fed. Reg. 7810. The effective date of the rule is February 19, 2026.

This rule removes the fuel content factor (FCF) from the calculation of the petroleum-equivalency factor (PEF). 91 Fed. Reg. at 7810. According to DOE, removal of the FCF is consistent with the United States Court of Appeals for the Eighth Circuit decision that held, among other things, that the inclusion of the FCF in the PEF calculation exceeded DOE’s authority under the substantive statute. *Id.*

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The 60-day delay in effective date does not apply, however, if the agency finds for good cause that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, and the agency incorporates the finding and a brief statement of its reasons in the rule. 5 U.S.C. §§ 553(b)(3)(B), 808(2). Here, according to DOE, there was good cause to waive notice and comment procedures because the regulations that include the FCF into the PEF calculation lack statutory authority, and the rule removes the FCF from the PEF value. 91 Fed. Reg. at 7815. According to DOE, the Administrative Procedure Act’s plain language and logic confirm that a rule that repeals facially unlawful regulations meets the bar for the good cause exception. *Id.*

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 the subject matter of the rule, please contact me at (202) 512-8156.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive style with a large initial 'S' and 'J'.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Ami Grace-Tardy
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
“PETROLEUM-EQUIVALENT FUEL ECONOMY CALCULATION”
(RIN: 1904-AF47)

(i) Cost-benefit analysis

According to the Department of Energy (DOE), once calculated, the petroleum-equivalency factor (PEF) has no independent effects, but serves as an input to calculations that other agencies perform. 91 Fed. Reg. 7810, 7815 (Feb. 19, 2026). DOE states that the general costs and benefits that could be attributed to the rule are somewhat removed from the action, and DOE has not attempted to quantify them. *Id.*

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

DOE stated that it certifies that this rule will not have a significant economic impact on a significant number of small entities. 91 Fed. Reg. at 7815.

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

DOE determined that this rule will not have an effect on state, local, or tribal governments, in the aggregate, or on the private sector, of \$100 million in 1995 dollars, updated annually for inflation, in any one year. 91 Fed. Reg. at 7816.

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

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

DOE issued this interim final rule without notice and comment to immediately remove the fuel content factor (FCF) from the PEF calculation, consistent with an opinion from the Court of Appeals for the Eighth Circuit and DOE’s own determination. 91 Fed. Reg. at 7813, 7815. DOE stated in the rule that there was good cause to waive notice and comment procedures because the regulations that include the FCF into the PEF calculation lack statutory authority, and the rule removes the FCF from the PEF value. 91 Fed. Reg. at 7815. According to DOE, the APA’s plain language and logic confirm that a rule that repeals facially unlawful regulations meets the bar for the good cause exception. *Id.*

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

DOE determined that this rule contains no new information or recordkeeping requirements under the Act. 91 Fed. Reg. at 7815.

Statutory authorization for the rule

According to DOE, this rule is promulgated pursuant to the Energy Policy and Conservation Act, Pub. L. No. 94-163, title III, 89 Stat. 871, 901 (Dec. 22, 1975), which amended the Motor Vehicle Information and Cost Savings Act (15 U.S.C. § 1901 *et. seq.*).

Executive Order No. 12866 (Regulatory Planning and Review)

DOE stated that this rule is significant under the Order and that it was submitted to the Office of Management and Budget for review. 91 Fed. Reg. at 7815.

Executive Order No. 13132 (Federalism)

DOE determined that this rule does not have federalism implications. 91 Fed. Reg. at 7816.