



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

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January 28, 2020

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

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

Subject: *Department of Energy: Energy Conservation Program: Energy Conservation Standards for Uninterruptible Power Supplies*

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 Uninterruptible Power Supplies" (RIN: 1904-AD69). We received the rule on January 14, 2020. It was published in the *Federal Register* as a final rule on January 10, 2020. 85 Fed. Reg. 1447. The effective date of the rule is March 10, 2020.

In this final rule DOE adopts new energy conservation standards for uninterruptible power supplies (UPS), a class of battery chargers, pursuant to the Energy Policy and Conservation Act of 1975 (EPCA). 42 U.S.C. §§ 6291-6309. DOE determined that the new energy conservation standards for these products would result in significant conservation of energy and are technologically feasible and economically justified.

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). This rule was published on January 10, 2020, but not received until January 14, 2020. It has a stated effective date of March 10, 2020, but compliance with the new energy standard is not required until January 10, 2025. To the extent that the rule purports to be effective on March 10, 2020, it does not have the required 60-day delay in effective date.

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 Janet Temko-Blinder, Assistant General Counsel, at (202) 512-7104.

signed

Shirley A. Jones
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 UNINTERRUPTIBLE POWER SUPPLIES”
(RIN: 1904-AD69)

(i) Cost-benefit analysis

The Department of Energy (DOE) expressed the benefits and costs of the standards adopted by this final rule in terms of annualized values, among other ways. Using a 7 percent discount rate, DOE stated that the estimated cost of the standards in this final rule is \$131 million per year in increased equipment costs, while the estimated annual benefits are \$255 million in reduced equipment operating costs, \$90 million in carbon dioxide (CO₂) reductions, and \$5.1 million in reduced nitrogen oxide (NO_x) emissions. DOE estimated a net benefits amount of \$219 million per year. Using a 3 percent discount rate for all benefits and costs and the SC-CO₂¹ series has a value of \$47.4/t in 2020, the estimated cost of the standards is \$140 million per year in increased equipment costs, while the estimated annual benefits are \$301 million in reduced operating costs, \$90 million in CO₂ reduction, and \$6.6 million in reduced NO_x emissions. DOE estimated the net benefit amounts to \$257 million per year.

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

DOE certified that the final rule will not have a significant economic impact on a substantial number of 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 determined that this final rule may require expenditures of \$100 million or more in any one year by the private sector. Specifically, DOE stated that these expenditures may include (1) investment in research and development and in capital expenditures by manufacturers of uninterruptible power supplies (UPS) 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 UPSs, starting at the compliance date for the applicable standard. DOE determined that this final rule, however, is both technologically feasible and economically justified.

¹ According to the final rule, the value of the CO₂ reduction is calculated using a range of values per metric ton (t) of CO₂ (otherwise known as the “social cost of CO₂,” or SC-CO₂).

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

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

On August 5, 2016, DOE published a proposed rule. 81 Fed. Reg. 52196. DOE received written comments from eight interested parties, including manufacturers, trade associations, standards development organizations, and energy efficiency advocacy groups. In addition, a number of interested parties also provided oral comments at DOE's public meeting on September 16, 2016. DOE responded to 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. Manufacturers of UPSs must certify to DOE that their products comply with any applicable energy conservation standards and DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including UPSs. The Office of Management and Budget (OMB) approved this collection-of-information requirement (OMB Control Number 1910-1400). DOE estimated that the public burden of reporting will have an average of 30 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 pursuant to section 2461 note of title 28 and sections 6291–6309 of title 42, United States Code.

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

DOE stated that OMB determined the final rule was economically significant and that DOE submitted the required analysis to OMB.

Executive Order No. 13,132 (Federalism)

DOE determined that this 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.