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United States General Accounting Office
Washington, DC 20548

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February 2, 2001

The Honorable Frank H. Murkowski
Chairman
The Honorable Jeff Bingaman
Ranking Member
Committee on Energy and Natural Resources
United States Senate

The Honorable W. J. (Billy) Tauzin
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Energy and Commerce
House of Representatives

Subject: Department of Energy, Office of Energy Efficiency and Renewable Energy:
Energy Conservation Program for Consumer Products: Energy
Conservation Standards for Water Heaters

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, Office of Energy Efficiency and Renewable Energy, entitled "Energy Conservation Program for Consumer Products: Energy Conservation Standards for Water Heaters" (RIN: 1904-AA76). We received the rule on January 18, 2001. It was published in the Federal Register as a final rule on January 17, 2001. 66 Fed. Reg. 4474.

The final rule amends the existing energy conservation standards for water heaters to significantly conserve energy with technologically feasible and economically justifiable standards.

Enclosed is our assessment of the 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 indicates that the DOE complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO

evaluation work relating to the subject matter of the rule is Bob Robinson, Managing Director, Natural Resources and Environment. Mr. Robinson can be reached at (202) 512-3841.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Mr. Neal J. Strauss
Assistant General Counsel for
Regulatory Law
Department of Energy

ENCLOSURE

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF ENERGY,
OFFICE OF ENERGY EFFICIENCY AND RENEWABLE ENERGY
ENTITLED
"ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS:
ENERGY CONSERVATION STANDARDS FOR WATER HEATERS"
(RIN: 1904-AA76)

(i) Cost-benefit analysis

DOE performed a cost-benefit analysis that is contained in its Technical Support Document (TSD). The TSD was furnished to our Office as part of DOE's submission of the final rule.

DOE estimates that the national energy savings over 26 years will be 4.6 quads of energy. These energy savings will result in greenhouse gas emission reductions of 152 million metric tons of carbon dioxide and 273 thousand metric tons of nitrogen oxides. In total, the estimated energy savings have a net present value of \$2.02 billion over 26 years.

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

DOE has 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

Section 202 of the Act requires a federal agency to publish estimates of the costs, benefits, and other effects on the economy when a regulatory action may result in the expenditure by the private sector of \$100 million or more in any one year. The TSD discussed above addresses these requirements.

Section 205 of the Act also requires a federal agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. In the TSD, DOE discusses the alternatives considered and describes how this final rule establishes energy conservation standards that achieve maximum improvement in energy efficiency that is technologically feasible and economically justified.

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

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

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. 553. On April 28, 2000, DOE published a Notice of Proposed Rulemaking in the Federal Register. 65 Fed. Reg. 25042. A hearing/workshop was held on June 20, 2000. The comments submitted are discussed in the preamble to the final rule.

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

The final rule does not contain any information collections that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule was promulgated under the authority contained at 42 U.S.C. 6291-6309 and 28 U.S.C. 2461 note.

Executive Order No. 12866

The final rule was reviewed by the Office of Management and Budget and found to be an “economically significant” regulatory action.

Executive Order No. 13132 (Federalism)

The final rule was reviewed under the order and DOE has determined that it 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. State regulations that may have existed on products that are the subject of the final rule were preempted by the federal standards established in the National Appliance Energy Conservation Amendments of 1988. States can petition DOE for exemption from such preemption based on the criteria set forth in the Energy Policy and Conservation Act.