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United States Government Accountability Office
Washington, DC 20548

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May 6, 2011

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

The Honorable Fred Upton
Chairman
The Honorable Henry A. Waxman
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Department of Energy: Energy Conservation Program: Energy Conservation Standards for Residential Clothes Dryers and Room Air Conditioners*

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 Residential Clothes Dryers and Room Air Conditioners” (RIN: 1904-AA89). We received the rule on April 22, 2011. It was published in the *Federal Register* as a direct final rule on April 21, 2011. 76 Fed. Reg. 22,454.

The direct final rule adopts amended energy conservation standards for residential clothes dryers and room air conditioners. A notice of proposed rulemaking that proposes identical energy efficiency standards is published elsewhere in the *Federal Register*. DOE states that if it receives adverse comment and determines that such comment may provide a reasonable basis for withdrawing the direct final rule, the direct final rule will be withdrawn and DOE will proceed with the proposed rule.

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. Our review of the procedural steps taken indicates that DOE complied with the applicable requirements.

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 Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
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
RESIDENTIAL CLOTHES DRYERS AND ROOM AIR CONDITIONERS"
(RIN: 1904-AA89)

(i) Cost-benefit analysis

DOE prepared a cost-benefit analysis in conjunction with the final rule. For clothes dryers, using a 7-percent discount rate, DOE determined the costs of the direct final rule would be \$52.3 million per year (\$55.4 million using a 3-percent discount rate) in increased equipment costs, while the annualized benefits are \$139.1 million per year (\$209.1 million using a 3-percent discount rate) in reduced equipment operating costs, \$25.0 million (\$25.0 million using a 3-percent discount rate) in carbon dioxide reductions, and \$0.9 million (\$1.4 million using a 3-percent discount rate) in reduced nitrogen oxide.

For room air conditioners, using a 7-percent discount rate, DOE determined the costs of the direct final rule would be \$107.7 million per year (\$111.0 million using a 3-percent discount rate) in increased equipment costs, while the annualized benefits are \$153.7 million per year (\$186.2 million using a 3-percent discount rate) in reduced equipment operating costs, \$19.5 million (\$19.5 million using a 3-percent discount rate) in carbon dioxide reductions, and \$0.999 million (\$1.20 million using a 3-percent discount rate) in reduced nitrogen oxide.

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

DOE certified that the standards for clothes dryers and room air conditioners in the final rule would 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 the final rule will not result in expenditure by state, local, and tribal governments, in the aggregate, of \$100 million or more in any one year. DOE determined that the final rule may impose expenditures of \$100 million or more on the private sector, which may include investment in research and development and in capital expenditures by home appliance manufacturers in the years between the

final rule and the compliance date for the new standard, and incremental additional expenditures by consumers to purchase higher efficiency home appliances.

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

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

DOE published the direct final rulemaking on April 21, 2011. 76 Fed. Reg. 22,454. The Energy Independence and Security Act of 2007 (EISA 2007; Pub. L. 110-140) amended the Energy Policy and Conservation Act. It grants DOE authority to issue a final rule establishing an energy conservation standard on receipt of a statement submitted jointly by interested persons that are fairly representative of relevant points of view, that contains recommendations with respect to an energy conservation standard, and that are in accordance with the provisions of 42 U.S.C. § 6295(o). EISA 2007 requires that DOE publish simultaneously a notice of proposed rulemaking that proposes an identical energy efficiency standard, and DOE must provide a public comment period of at least 110 days on the proposal. 42 U.S.C. § 6295(p)(4). DOE issued a notice of proposed rulemaking elsewhere in the *Federal Register* on April 21, 2011. 76 Fed. Reg. 22,324. As required by EISA 2007, DOE states that if, by August 9, 2011, DOE receives adverse comment and determines such comment may provide a reasonable basis for withdrawing the direct final rule, the direct final rule will be withdrawn and DOE will proceed with the proposed rule.

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

The final rule contains information collection requirements under the Paperwork Reduction Act. Manufacturers of clothes dryers and room air conditioners must certify that their products comply with any applicable energy conservation standards. DOE estimates that the public reporting burden will be 20 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. DOE has submitted the requirement to the Office of Management and Budget (OMB) for approval.

Statutory authorization for the rule

The direct final rule is authorized by Part B of title III of the Energy Policy and Conservation Act (EPCA), codified at 42 U.S.C. §§ 6291-6309.

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

DOE determined that the direct final rule is economically significant under the Executive Order, and the draft rule and other documents prepared for the rulemaking were submitted to OMB under the Order.

Executive Order No. 13,132 (Federalism)

In the direct final rule, DOE states that it will follow DOE's policy for intergovernmental consultation. Furthermore, states can petition DOE for exemption from preemption to the extent, and based on criteria, set forth in EPCA, as codified at 42 U.S.C. § 6297.