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August 4, 2014

The Honorable Mary Landrieu
Chair
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 for Consumer Products: Energy Conservation Standards for Residential Furnace Fans*

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 (Energy) entitled "Energy Conservation Program for Consumer Products: Energy Conservation Standards for Residential Furnace Fans" (RIN: 1904-AC22). We received the rule on July 18, 2014. It was published in the *Federal Register* as a final rule on July 3, 2014. 79 Fed. Reg. 38,130.

The final rule prescribes energy conservation standards for residential furnace fans. Pursuant to the Energy Policy and Conservation Act of 1975 (EPCA), as amended, Energy must prescribe energy conservation standards for various consumer products and certain commercial and industrial equipment, including residential furnace fans. EPCA requires Energy to determine whether such standards would be technologically feasible and economically justified and would save a significant amount of energy. Energy has determined that the prescribed energy conservation standards for these products would result in significant conservation of energy and are technologically feasible and economically justified. The effective date for this final rule is September 2, 2014. Compliance with the prescribed standards established for residential furnace fans is required on and after July 3, 2019.

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 final rule was published in the *Federal Register* on July 3, 2014, received by the Senate on July 22, 2014, and received by the House of Representatives on July 18, 2014. 79 Fed. Reg. 28,130; 160 Cong. Rec. S4702 (July 22, 2014); 160 Cong. Rec. H6812 (July 24, 2014). This final rule has a stated effective date of September 2, 2104. Therefore, this final rule does not have the required 60-day delay in effective date under CRA.

Enclosed is our assessment of Energy's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Other than the 60-day delay, our review of the procedural steps taken indicates that Energy 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 FOR
CONSUMER PRODUCTS: ENERGY CONSERVATION STANDARDS
FOR RESIDENTIAL FURNACE FANS"
(RIN: 1904-AC22)

(i) Cost-benefit analysis

The Department of Energy (Energy) analyzed the costs and benefits of this final rule. Energy presented a table of its evaluation of the economic impacts of this final rule on consumers of residential furnace fans, as measured by the average life-cycle cost (LCC) savings and the median payback period (PBP). The average LCC savings are positive for all product classes. Energy also calculated the impact on manufacturers. The industry net present value (INPV) is the sum of the discounted cash flows to the industry from the base year through the end of the analysis period (2014 to 2048). Using a real discount rate of 7.8 percent, Energy estimated that the INPV for manufacturers of residential furnace fans is \$349.6 million. Under this final rule, Energy expects that manufacturers may lose up to 16.9 percent of their INPV, which is approximately \$59.0 million. Total conversion costs incurred by industry prior to the compliance date are expected to reach \$40.6 million.

Energy also estimated the benefits of this final rule, stating that this final rule would save a significant amount of energy. The lifetime energy savings for residential furnace fans purchased in the 30-year period that begins in the year of compliance with the standards (2019–2048) amount to 3.99 quadrillion Btu (quads). The estimated annual energy savings in 2030 (0.07 quads) are equivalent to 0.3 percent of total U.S. residential energy use in 2012. The cumulative net present value (NPV) of total consumer costs and savings of the standards for residential furnace fans ranges from \$10,024 million (at a 7 percent discount rate) to \$28,810 million (at a 3 percent discount rate). This NPV expresses the estimated total value of future operating-cost savings minus the estimated increased product costs for residential furnace fans purchased in 2019–2048. In addition, this final rule is expected to have significant environmental benefits. The energy savings would result in cumulative emission reductions of approximately 180.6 million metric tons (Mt) of carbon dioxide (CO₂), 695.0 thousand tons of methane (CH₄), 235.7 thousand tons of sulfur dioxide (SO₂), 84.0 thousand tons of nitrogen oxides (NO_x), 6.2 thousand tons of nitrous oxide (N₂O), and 0.4 tons of mercury (Hg). The cumulative reduction in CO₂ emissions through 2030 amounts to 34 million Mt. The value of the CO₂ reductions is calculated using a range of values per metric ton of CO₂ (otherwise known as the Social Cost of Carbon) developed by a recent federal interagency process.

In a table in the final rule, Energy summarized the national economic costs and benefits expected to result from the standards for residential furnace fans. Based on the analyses culminating in this final rule, Energy found the benefits to the nation of the standards (energy savings, consumer LCC savings, positive NPV of consumer benefit, and emission reductions) outweigh the burdens (loss of INPV and LCC increases for some users of these products). Energy has concluded that the standards in this final rule represent the maximum improvement

in energy efficiency that is technologically feasible and economically justified and would result in significant conservation of energy.

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

Energy prepared a final regulatory analysis for this final rule. The analysis included (1) a description and estimated number of small entities regulated; (2) a description and estimate of compliance requirements; (3) any duplication, overlap, or conflict with other rules and regulations; and (4) significant alternatives to the rule.

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

Energy has concluded that this final rule would likely require annual expenditures of \$100 million or more by the private sector. Such expenditures may include investment in research and development and in capital expenditures by residential furnace fans manufacturers in the years between the final rule and the compliance date for the new standards, and incremental additional expenditures by consumers to purchase higher-efficiency residential furnace fans, starting at the compliance date for the applicable standard. Energy stated that its Regulatory Impact Analysis constitutes its actions taken to comply with the Act. In addition, Energy states that this final rule adopts the most cost-effective and least burdensome alternative that achieves the objectives of the rule.

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

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

On June 1, 2010, Energy published a framework document for this rulemaking and then published the Notice of Public Meeting and Availability of the Framework Document for furnace fans in the *Federal Register* on June 3, 2010. 75 Fed. Reg. 31,323. Energy originally scheduled the comment period on the Framework Document to close on July 6, 2010, but due to the large number and broad scope of questions and issues raised, Energy subsequently published a notice in the *Federal Register* reopening the comment period from July 15, 2010, until July 27, 2010, to allow additional time for interested parties to submit comments. 75 Fed. Reg. 41,102 (July 15, 2010). Energy also published in the *Federal Register* a Notice of Public Meeting and the Availability of the Preliminary Technical Support Document (TSD) on July 10, 2012. 77 Fed. Reg. 40,530. Energy published a Notice of Proposed Rulemaking (NPR) in the *Federal Register* and made available an accompanying NPR TSD on October 25, 2013. 78 Fed. Reg. 64,068. Energy invited and received comments on the NPR, to which it responded in this final rule.

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

Energy determined that this final rule contains an information collection requirement under the Act. This information collection requirement for furnace fan certification has been submitted to the Office of Management and Budget (OMB) for approval. Energy estimates that the public reporting burden for the information collection will average 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. Energy notes that the

certification and recordkeeping requirements for certain consumer products in 10 C.F.R. part 430 have previously been approved by OMB and assigned OMB control number 1910–1400; the certification requirement for furnace fans will be included in this collection once approved by OMB. Energy states that it will notify the public of OMB approval through a *Federal Register* notice.

Statutory authorization for the rule

Energy states that it promulgated this final rule under the authority of sections 6291 to 6309 of title 42, United States Code.

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

Energy determined that this final rule is economically significant under the Order, and it has been reviewed by OMB.

Executive Order No. 13,132 (Federalism)

On March 14, 2000, Energy published a statement of policy describing the intergovernmental consultation process it would follow in the development of these regulations. 65 Fed. Reg. 13,735. The Energy and Conservation Act of 1975 (EPCA) governs and prescribes federal preemption of state regulations as to energy conservation for the equipment that is the subject this final rule. States can petition Energy for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. 42 U.S.C. § 6297. Energy determined that no further action is required by the Order.