



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

B-336128

March 28, 2024

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

The Honorable Cathy McMorris Rodgers  
Chair  
The Honorable Frank Pallone, Jr.  
Ranking Member  
Committee on Energy and Commerce  
House of Representatives

Subject: *Department of Energy: Energy Conservation Program: Energy Conservation Standards for Consumer Clothes Dryers*

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 Consumer Clothes Dryers” (RIN: 1904-AF59). We received the rule on March 13, 2024. It was published in the *Federal Register* as a direct final rule on March 12, 2024. 89 Fed. Reg. 18164. The effective date is July 10, 2024.

According to DOE, the Energy Policy and Conservation Act, as amended<sup>1</sup> (EPCA), prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including consumer clothes dryers. In this direct final rule, DOE stated that it is adopting amended energy conservation standards for consumer clothes dryers. DOE explained that it has determined that the amended energy conservation standards for these products would result in significant conservation of energy and are technologically feasible and economically justified.

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

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<sup>1</sup> Pub. L. No. 94-163, 89 Stat. 871, 969 (Dec. 22, 1975), *codified at* 42 U.S.C. §§ 6291–6317. In the footnotes to this final rule, DOE clarified that all references to EPCA in the rule refer to the statute as amended through the Energy Act of 2020, Pub. L. No. 116-260, 134 Stat. 1182, 3305 (Dec. 27, 2020), which reflects the last statutory amendments that impact Parts A and A-1 of EPCA.

the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

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 a long, sweeping tail on the 'J'.

Shirley A. Jones  
Managing Associate General Counsel

Enclosure

cc: Ami Grace-Tardy  
Assistant General Counsel  
Legislation, Regulation & 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 CONSUMER CLOTHES DRYERS”  
(RIN: 1904-AF59)

(i) Cost-benefit analysis

The Department of Energy (DOE) conducted a cost-benefit analysis of this direct final rule. This analysis included a discussion of the rule’s benefits and costs to consumers of consumer clothes dryers, the rule’s impact on manufacturers, and the rule’s national benefits and costs. Using a 7-percent discount rate for consumer benefits and costs and nitrogen oxides and sulfur dioxide reduction benefits, and a 3-percent discount rate case for greenhouse gas social costs, DOE estimated the cost of the standards for consumer clothes dryers is \$60.0 million per year in increased product costs, while the estimated annual benefits are \$971.4 million in reduced product operating costs, \$185.5 million in climate benefits, and \$259.9 million in health benefits. According to DOE, the net benefit of the rule amounts to \$1,357 million per year. DOE noted that the net benefits are substantial even in the absence of the climate benefits, and that it would adopt the same standards in the absence of such benefits.

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

DOE stated that it is not obligated to prepare a regulatory flexibility analysis for this direct final rule because there is not a requirement to publish a general notice of proposed rulemaking (NOPR) for the rule under the Administrative Procedure Act, 5 U.S.C. §§ 601(2), 603(a). DOE determined that the letter that proposed the rule’s adopted standard levels, entitled “Energy Efficiency Agreement of 2023”, meets the necessary requirements under the Energy Policy and Conservation Act, as amended<sup>2</sup> (EPCA) to issue the rule for energy conservation standards for consumer clothes dryers under the procedures in 42 U.S.C. § 6295(p)(4). DOE stated that it did publish a NOPR for energy conservation standards for consumer clothes dryers that contains a regulatory flexibility analysis. 89 Fed. Reg. 18244 (Mar. 12, 2024).

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

DOE concluded that this direct final rule may require expenditures of \$100 million or more in any one year by the private sector. According to DOE, such expenditures may include (1) investment in research and development and in capital expenditures by consumer clothes dryer manufacturers in the years between the rule and the compliance date for the new

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<sup>2</sup> Pub. L. No. 94-163, 89 Stat. 871, 969 (Dec. 22, 1975), *codified at* 42 U.S.C. §§ 6291–6317. In the footnotes to this final rule, DOE clarified that all references to EPCA in the rule refer to the statute as amended through the Energy Act of 2020, Pub. L. No. 116-260, 134 Stat. 1182, 3305 (Dec. 27, 2020), which reflects the last statutory amendments that impact Parts A and A-1 of EPCA.

standards and (2) incremental additional expenditures by consumers to purchase higher efficiency consumer clothes dryers starting at the compliance date for the applicable standard.

(iv) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 amended 5 U.S.C. § 801(a)(2)(A) to require GAO to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO's major rule reports. In guidance to Executive Branch agencies, issued on September 1, 2023, the Office of Management and Budget (OMB) instructed that agencies should include a statement explaining that either: "the Act does not apply to this rule because it does not increase direct spending; the Act does not apply to this rule because it meets one of the Act's exemptions (and specifying the relevant exemption); the OMB Director granted a waiver of the Act's requirements pursuant to section 265(a)(1) or (2) of the Act; or the agency has submitted a notice or written opinion to the OMB Director as required by section 263(a) or (b) of the Act" in their submissions of rules to GAO under the Congressional Review Act. OMB, *Memorandum for the Heads of Executive Departments and Agencies*, Subject: Guidance for Implementation of the Administrative Pay-As-You-Go Act of 2023, M-23-21 (Sept. 1, 2023), at 11–12. OMB also states that directives in the memorandum that supplement the requirements in the Act do not apply to proposed rules that have already been submitted to the Office of Information and Regulatory Affairs, however agencies must comply with any applicable requirements of the Act before finalizing such rules.

DOE did not discuss the Administrative Pay-As-You-Go Act of 2023 in the rule or in its submission to us.

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

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

On March 12, 2024, DOE published a NOPR that DOE stated contains identical standards to those adopted in this final rule. 89 Fed. Reg. 18244. DOE also stated that it is providing a 110-day public comment period on the final rule, and that, if it determines that any comments received provide a reasonable basis for withdrawal of the final rule, it will publish the reasons for withdrawal and continue the rulemaking under the NOPR.

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

DOE determined that this final rule contains information collection requirements under the Act. According to DOE, this requirement has been approved by OMB under OMB Control Number 1910-1400. DOE estimated the public reporting burden for the certification to average 35 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 sections 6291–6309 of title 42, and section 2461 note of title 28, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

In this final rule, DOE stated that the Office of Information and Regulatory Affairs (OIRA) in OMB has determined that the rule constitutes a “significant regulatory action” within the scope of the Order. Pursuant to the Order, DOE stated that it has provided to OIRA an assessment, including the underlying analysis, of benefits and costs anticipated from the rule, together with, to the extent feasible, a quantification of those costs; and an assessment, including the underlying analysis, of costs and benefits of potentially effective and reasonably feasible alternatives to the rule, and an explanation why the rule is preferable to the identified potential alternatives.

Executive Order No. 13132 (Federalism)

DOE determined that this final rule will 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 within the meaning of the Order.