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United States Government Accountability Office
Washington, DC 20548

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October 31, 2007

The Honorable Jeff Bingaman
Chairman
The Honorable Pete V. Domenici
Ranking Minority Member
Committee on Energy and Natural Resources
United States Senate

The Honorable John D. Dingell
Chairman
The Honorable Joe Barton
Ranking Minority Member
Committee on Energy and Commerce
House of Representatives

Subject: *Department of Energy: Energy Conservation Program for Commercial Equipment: Distribution Transformers Energy Conservation Standards; Final Rule*

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 for Commercial Equipment: Distribution Transformers Energy Conservation Standards; Final Rule” (RIN: 1904-AB08). We received the rule on October 17, 2007. It was published in the *Federal Register* as a final rule on October 12, 2007. 72 Fed. Reg. 58,190.

The final rule adopts energy conservation standards for liquid-immersed and medium-voltage, dry-type distribution transformers. These standards are minimum efficiency levels for the transformers manufactured for sale in the United States or imported into the United States on or after January 1, 2010.

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. The Congressional Review Act requires a major rule to take effect no earlier than 60 days from the rule’s publication in the *Federal Register* or receipt by Congress. 5 U.S.C. § 801(a)(3)(A). This rule was published on October 12, 2007, and was

received on October 17, 2007. The rule has a stated effective date of November 13, 2007. The rule's standards for liquid-immersed and medium-voltage, dry-type distribution transformers will be applicable starting January 1, 2010. This rule does not have the required 60-day delay in the effective date. Our review indicates that DOE complied with all other applicable requirements.

If you have any questions about this report, please contact Michael R. Volpe, Assistant General Counsel, at (202) 512-8236. The official responsible for GAO evaluation work relating to the subject matter of the rule is Robert Robinson, Managing Director, Natural Resources and the Environment. Mr. Robinson can be reached at (202) 512-3841.

signed

Robert J. Cramer
Associate General Counsel

Enclosure

cc: Michael W. Bowers
Attorney
Office of Assistant General Counsel
for Legislation and Regulatory Law
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
COMMERCIAL EQUIPMENT: DISTRIBUTION TRANSFORMERS
ENERGY CONSERVATION STANDARDS; FINAL RULE"
(RIN: 1904-AB08)

(i) Cost-benefit analysis

The Department of Energy (DOE) analyzed the costs and benefits of this final rule. DOE estimates the national net present value of the standards to be \$1.39 billion using a 7 percent discount rate and \$7.8 billion using a 3 percent discount rate. Using a 7 percent discount rate, the cost of the standard is \$463 million per year in increased equipment and installation costs while the annualized benefits are \$602 million per year in reduced equipment costs. Using a 3 percent discount rate, the cost of the standard is \$460 million per year and the benefits are \$904 million per year.

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

DOE prepared a Final Regulatory Flexibility Analysis for this rulemaking. DOE estimates that of the approximately 25 domestic manufacturers of liquid-immersed distribution transformers, approximately 15 are small businesses, and of the approximately 25 domestic manufacturers of medium-voltage, dry-type transformers, approximately 20 are small businesses. According to DOE, it explicitly considered the impact on small businesses in selecting the trial standard levels in this final rule rather than selecting a high level.

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

DOE reviewed this rule under the Act. DOE determined that this final rule may impose expenditures of \$100 or more on the private sector and that it does not contain a federal intergovernmental mandate.

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

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

DOE promulgated this rule under the notice-and-comment procedures found in the Administrative Procedures Act. 5 U.S.C. § 553. DOE published proposed rulemakings on July 25, 2006, and August 4, 2006. 71 Fed. Reg. 42,178, 44,355. DOE received over 170 comments, to which it responded in the final rule. 72 Fed. Reg. 58,211–17.

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

This final rule contains information collection requirements requiring the approval of the Office of Management and Budget (OMB) under the Act. DOE will be submitting the proposed information collection requirements to OMB.

Statutory authorization for the rule

DOE promulgated this rule under part C of title III of the Energy Policy and Conservation Act, 42 U.S.C. §§ 6311–17.

National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321–4370f

DOE prepared an environmental assessment of the impact of this final rule. DOE determined that the environmental effects associated with the various standard efficiency levels for distribution transformers to be not significant and, therefore, found no significant impact under the Act.

Executive Order No. 12,866

DOE has determined that this final rule is a significant regulatory action under the order and has submitted an assessment of the costs and benefits of the rule to OMB.

Executive Order No. 13,132 (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.