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August 20, 2009

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

The Honorable Henry A. Waxman
Chairman
The Honorable Joe L. Barton
Ranking Minority Member
Committee on Energy and Commerce
House of Representatives

Subject: *Department of Energy: Energy Conservation Program: Energy Conservation Standards and Test Procedures for General Service Fluorescent Lamps and Incandescent Reflector Lamps*

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 and Test Procedures for General Service Fluorescent Lamps and Incandescent Reflector Lamps” (RIN: 1904-AA92). We received the rule on August 6, 2009. It was published in the *Federal Register* as a final rule on July 14, 2009. 74 Fed. Reg. 34,080.

The final rule amends the energy conservation standards for certain general service fluorescent lamps and incandescent reflector lamps. The final rule also adopts new energy conservation standards and amendments to DOE’s test procedures for certain general service fluorescent lamps not currently covered by the standards. Finally, the final rule amends the definitions of certain terms found in the general provisions.

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 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 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: ENERGY CONSERVATION
STANDARDS AND TEST PROCEDURES FOR
GENERAL SERVICE FLUORESCENT LAMPS
AND INCANDESCENT REFLECTOR LAMPS"
(RIN: 1904-AA92)

(i) Cost-benefit analysis

DOE performed a cost-benefit analysis in conjunction with the final rule. DOE determined that the benefits include energy savings, consumer life-cycle cost savings, positive national net present value and emissions reductions. Costs for the final rule include loss of manufacturer industry net present value and consumer life-cycle cost increases for some users of general service fluorescent lamps (GSFL) and incandescent reflector lamps (IRL). DOE determined that the benefits outweigh the costs of the final rule. In addition, DOE determined that the standards in the final rule represent the maximum improvement in energy efficiency that is technologically feasible and economically justified, and will result in significant energy savings.

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

DOE certified that the final rule would not have a significant economic impact on a substantial number of small entities, and therefore did not prepare a regulatory flexibility analysis.

(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 does not contain an intergovernmental mandate; however, it may result in expenditure of \$100 million or more in a given year by the private sector. DOE prepared a statement as to the basis, costs, benefits and economic impacts of the rule, and identified and considered regulatory alternatives to the rule.

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

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

On May 31, 2006, DOE commenced the rulemaking by publishing a framework document for the rulemaking and by giving notice of a public meeting and of the availability of the document for review and public comment. 71 Fed. Reg. 30,834. DOE issued an advanced notice of proposed rulemaking (ANOPR), which was published in the *Federal Register* on March 13, 2008. 73 Fed. Reg. 13,620. DOE held a public meeting in Washington, D.C., on March 10, 2008, and on June 26, 2008, DOE met with the National Electrical Manufacturers Association (NEMA) to discuss appropriate standards for high correlated color temperature fluorescent lamps. DOE addressed comments it received in response to the ANOPR, including comments from the public meeting and the meeting with NEMA, in its notice of proposed rulemaking, published in the *Federal Register* on April 13, 2009. 74 Fed. Reg. 16,920. DOE held a public meeting on February 3, 2009, in Washington, D.C., to receive oral comments on and solicit information relevant to the proposed rule. DOE responded to the comments on the proposed rule in this final rule. 74 Fed. Reg. 34,080.

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

This final rule imposes no new information and recordkeeping requirements; therefore, the Office of Management and Budget (OMB) clearance under the Paperwork Reduction Act is not required.

Statutory authorization for the rule

The final rule is authorized by Part A of Title III of the Energy Policy and Conservation Act (EPCA), 42 U.S.C. § 6291 et. seq.

Executive Order No. 12866 (Regulatory Planning and Review)

The final rule was determined to be economically significant under the Executive Order. In accordance with the Executive Order, DOE prepared and submitted to OMB an economic analysis outlining the costs and benefits of implementing each of these programs.

Executive Order No. 13132 (Federalism)

DOE determined that the final rule 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.