



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

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January 13, 2025

Committee on Energy and Natural Resources  
United States Senate

Committee on Energy and Commerce  
House of Representatives

Subject: *Department of Energy: Energy Conservation Program: Energy Conservation Standards for Consumer Gas-fired Instantaneous Water Heaters*

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 Gas-fired Instantaneous Water Heaters” (RIN: 1904-AF65). We received the rule on December 27, 2024. It was published in the *Federal Register* on December 26, 2024. 89 Fed. Reg. 105188. The effective date of the rule is March 11, 2025.

This rule adopts amended energy conservation standards for gas-fired instantaneous water heaters. These standards apply to products with effective storage volumes less than 2 gallons and input ratings greater than 50,000 British thermal units per hour and manufactured in, or imported into, the United States starting on December 26, 2029. For all other gas-fired instantaneous water heaters, DOE is adopting new standards that do not constitute an increase to stringency, but simply a change in rating metric to the uniform energy factor descriptor.

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 the subject matter of the rule, please contact Charlie McKiver, Assistant General Counsel, at (202) 512-5992.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones  
Managing Associate General Counsel

Enclosure

cc: Ami Grace-Tardy  
Assistant General Counsel  
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 CONSUMER GAS-FIRED INSTANTANEOUS WATER HEATERS”  
(RIN: 1904-AF65)

(i) Cost-benefit analysis

The Department of Energy (DOE) prepared an analysis of the costs and benefits for this rule. See 89 Fed. Reg. 105190–105194 (Dec. 26, 2024). DOE estimated that industry will incur total conversion costs of \$20.4 million to bring products into compliance with amended standards. *Id.* at 105190. DOE estimated a total consumer operating cost savings of \$4.5 billion between 2030–2059 at a 3 percent discount rate, and \$1.7 billion at a 7 percent discount rate. *Id.* at 105191. DOE also estimated other benefits of the rule, including those on the environment and public health. *Id.* at 105190–105191.

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

DOE certified that this rule will not have a significant economic impact on a substantial number of small entities. See 89 Fed. Reg. 105281.

(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 this rule will result in expenditures of \$100 million or more, adjusted annually for inflation, for the private sector in any one year. 89 Fed. Reg. 105283. DOE described these effects and the actions they took in accordance with the Act. *Id.*

(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.

In its submission to us, DOE indicated that the Act is not applicable to the rule.

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

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

On July 28, 2023, DOE published a proposed rule. 88 Fed. Reg. 49058. DOE stated that they received comments from various interested parties. See 89 Fed. Reg. 105197. DOE responded to comments in the rule. *Id.*

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

DOE determined that this rule contains information collection requirements under the Act. 89 Fed. Reg. 105282.

Statutory authorization for the rule

DOE promulgated this rule pursuant to 42 U.S.C. §§ 6291–6317.

Executive Order No. 12866 (Regulatory Planning and Review)

DOE stated that this rule is significant under the Order. See 89 Fed. Reg. 105281. According to DOE, the rule was submitted to OMB for review. *Id.*

Executive Order No. 13132 (Federalism)

DOE determined that this rule does not have federalism implications. See 89 Fed. Reg. 105282.