

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2561 Rayburn House Office Building
Washington, DC 20515-6515

March 13, 2024

The Honorable Jennifer M. Granholm
Secretary
U.S. Department of Energy
1000 Independence Ave. SW
Washington, DC 20585

Dear Secretary Granholm:

The House Committee on Small Business (the Committee) writes to request further information about the Department of Energy's (DoE) decision making and practices relating to the Regulatory Flexibility Act (RFA). The Committee has sent a total of five letters requesting communications and other information about the economic impact analyses for certain rules. While the DoE has responded to some of the Committee's requests in narrative form, to date, the DoE has failed to produce any requested communications.

As you are well aware, the RFA requires agencies to identify and take steps to mitigate any possible significant economic impact on small entities, including the consideration of less impactful alternatives to the rule.¹ Although the DoE has claimed to recognize "the important role small businesses play in our economy," the Biden Administration's regulatory agenda has had a significant impact on a substantial number of small entities.² In fact, the DoE alone has pushed 1,246 paperwork hours and \$23.9 billion in costs onto American businesses since President Biden took office.³

On February 22, 2023, the Committee launched this investigation by sending a letter to the DoE requesting communications and information regarding compliance with the RFA.⁴ Since then, the Committee has sent an additional four letters to the DoE requesting communications and information for specific rules. The DoE has failed to produce a single communication in response to any of these letters. Further, the DoE has failed to provide any valid reason for withholding these documents. The lack of transparency and willingness to be forthright with the Committee is unacceptable.

¹ See 5 U.S.C §§ 602-612.

² Letter from Ron Pierce, Director, Office of Small and Disadvantaged Business Utilization, Dep't of Energy, to Rodger Williams, Chairman, H. Comm. On Small Bus. (Apr. 12, 2023).

³ *Explore the Data, Regulation Rodeo*, AM. ACTION FORUM (last visited Mar. 7, 2024), <https://regrodeo.com/?year%5B0%5D=2024&year%5B1%5D=2023&year%5B2%5D=2022&year%5B3%5D=2021&agency%5B0%5D=Energy>.

⁴ See Letter from Roger Williams, Chairman, H. Comm. on Small Bus., to Jennifer M. Granholm, Secretary, U.S. Dep't of Energy (Feb. 22, 2023).

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America's small businesses deserve to have their voices heard and considered. In furtherance of the Committee's investigation into the DoE's decisions in complying with the RFA, the Committee is requesting complete responses to the document requests below, which incorporate and narrow its outstanding documents requests, no later than March 27, 2024.

1. All communications, including but not limited to emails, between and among Department personnel relating to the RFA, impact analyses, compliance burdens, and the determination of whether there will be a "significant impact on a substantial number of businesses" for the following proposed rules and time periods:
 - a. *Energy Conservation Program: Energy Conservation Standards for Distribution Transformers* from January 1, 2022, to January 11, 2023.
 - b. *Energy Conservation Program: Energy Conservation Standards for Battery Chargers* from March 1, 2022, to March 15, 2023.
 - c. *Energy Conservation Program: Energy Conservation Standards for Ceiling Fans* from June 1, 2022, through June 22, 2023.
 - d. *Energy Conservation Program: Energy Conservation Standards for Commercial Refrigerators, Freezers, and Refrigerator-Freezers* from October 1, 2022, through October 10, 2023.

To schedule the delivery of your response or ask any related follow-up questions, please contact the Committee on Small Business Majority Staff at (202) 225-5821. The Committee on Small Business has broad authority to investigate "problems of all types of small business" under House Rule X. Thank you in advance for your cooperation with this inquiry.

In God We Trust,



Roger Williams
Chairman
Committee on Small Business

cc: The Honorable Nydia M. Velazquez, Ranking Member
Committee on Small Business