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B-318944

November 13, 2009

The Honorable Barbara Boxer  
Chairman  
The Honorable James M. Inhofe  
Ranking Minority Member  
Committee on Environment and Public Works  
United States Senate

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

Subject: *Environmental Protection Agency: Mandatory Reporting of Greenhouse Gases*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Environmental Protection Agency (EPA), entitled “Mandatory Reporting of Greenhouse Gases” (RIN: 2060-AO79). We received the rule on September 28, 2009. It was published in the *Federal Register* as a final rule on October 30, 2009. 74 Fed. Reg. 56,260.

The final rule requires reporting of greenhouse gas (GHG) emissions from all sectors of the economy. Specifically, the rule requires the reporting of the GHG emissions that could result from the combustion or use of fossil fuel or industrial gas that is produced or imported from upstream sources such as fuel suppliers, as well as reporting of GHG emissions directly emitted from facilities (downstream sources) through their processes and/or from fuel combustion, as appropriate. Vehicle and engine manufacturers are also required to report emissions rate data on the heavy-duty and off-road engines they produce. The rule also establishes appropriate thresholds and frequency for reporting. The rule requires reporting of annual emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), sulfur hexafluoride (SF<sub>6</sub>), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and other fluorinated gases (e.g., nitrogen trifluoride (NF<sub>3</sub>) and hydrofluorinated ethers (HFEs)). It also includes provisions to ensure the accuracy of emissions data through monitoring, recordkeeping, and verification requirements. The rule applies

to certain downstream facilities that emit GHGs (primarily large facilities emitting 25,000 metric tons or more of CO<sub>2</sub> equivalent (CO<sub>2</sub>e) GHG emissions per year) and to most upstream suppliers of fossil fuels and industrial GHGs, as well as to manufacturers of vehicles and engines. Reporting is at the facility level, except certain suppliers and vehicle and engine manufacturers report at the corporate level.

Enclosed is our assessment of the EPA'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 EPA 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: Nicole Owens  
Director, Regulatory  
Management Division  
Environmental Protection Agency

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
ENVIRONMENTAL PROTECTION AGENCY  
ENTITLED  
"MANDATORY REPORTING OF GREENHOUSE GASES"  
(RIN: 2060-AO79)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) analyzed the costs and benefits of this final rule. EPA estimates that the total national annualized cost for the first year will be \$132 million, and the total national annualized cost for subsequent years will be \$89 million. Of these costs, roughly 13 percent fall upon the public sector for program administration in the first year, while 87 percent fall upon the private sector. General stationary combustion sources, which are widely distributed throughout the economy, are estimated to incur approximately 26 percent of costs in the first year; other sectors incurring relatively large shares of costs are pulp and paper manufacturing (9 percent) and vehicle and engine manufacturers (9 percent).

EPA identified several potential benefits of this final rule. According to EPA, a mandatory reporting system will benefit the public by increased transparency of facility emissions data and will benefit the government when it develops future greenhouse gas (GHG) emission policies. EPA identified benefits for industry including the value of having independent, verifiable data to present to the public to demonstrate appropriate environmental stewardship and having a better understanding of emission levels and sources to identify opportunities to reduce emissions.

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

EPA determined that this final rule will not have a significant economic impact on a substantial number of small entities.

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

EPA determined that this final rule contains a federal mandate that may result in expenditures of \$100 million for the private sector in any one year. EPA also determined that the expenditures for state, local, and tribal governments, in the aggregate, will be approximately \$12.1 million per year. Accordingly, EPA prepared a written assessment under the Act. EPA initiated an outreach effort with the governmental entities affected by this rule including state, local, and tribal officials.

EPA stated that it identified and considered a reasonable number of regulatory alternatives. Finally, EPA determined that this rule does not impose any implementation responsibilities on state, local, or tribal governments, and it is not expected to increase the cost of existing regulatory programs managed by those governments.

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

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

EPA published the proposed rule on April 10, 2009. 74 Fed. Reg. 16,448. EPA held two public hearings and received approximately 16,800 written public comments. EPA also met with over 4,000 people and 135 groups. EPA responded to comments in the final rule. 74 Fed. Reg. 56,269–369.

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

EPA determined that this final rule contains information collection requirements under the Act. The information collection requirements have been submitted to the Office of Management and Budget (OMB) for review. EPA plans to collect economy-wide data on facility level GHG emissions. EPA projected the cost for non-federal respondents to be \$86.3 million and the hour burden to be 1.21 million hours per year.

Statutory authorization for the rule

EPA promulgated this final rule under sections 114 and 208 of the Clear Air Act. 43 U.S.C. §§ 7414, 7542.

National Technology Transfer and Advancement Act of 1995, 15 U.S.C. § 272 note

EPA determined that this final rule involves technical standards and will use more than 60 voluntary consensus standards from 10 different voluntary consensus standards bodies to help facilities monitor, report, and keep records of GHG emissions. By incorporating voluntary consensus standards into this final rule, EPA states that it is both meeting the requirements of the Act and presenting multiple options and flexibility for measuring GHG emissions.

Executive Order No. 12,866 (Regulatory Planning and Review)

EPA determined that this rule is economically significant under the Order because it is likely to have an annual effect on the economy of \$100 million or more. EPA submitted this rule to OMB for review.

Executive Order No. 12,898 (Environmental Justice)

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. EPA also concluded that this final rule does not affect the level of protection provided to human health or the environment because it is a rule addressing information collection and reporting procedures.

Executive Order No. 13,045 (Children's Health)

EPA determined that this rule is not subject to the Order because it does not establish an environmental standard intended to mitigate health or safety risks.

Executive Order No. 13,132 (Federalism)

EPA determined that this final rule does not have federalism implications and that it will not have substantial direct effect on the states, the relationship between the national governments and the states, or on the distribution of power and responsibilities among the various levels of governments under the Order.

Executive Order No. 13,175 (Consultation and Coordination with Indian Tribal Governments)

EPA determined that this final rule does not have tribal implications under the Order. EPA did seek opportunities to provide information to tribal governments and representatives during the development of the rule.

Executive Order No. 13,211 (Energy Supply)

EPA determined that this final rule is not a significant energy action under the Order because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, EPA concluded that this rule is not likely to have any adverse energy effects.