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United States Government Accountability Office
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January 19, 2006

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

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

Subject: *Environmental Protection Agency: National Primary Drinking Water Regulations: Long Term 2 Enhanced Surface Water Treatment 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 Environmental Protection Agency (EPA), entitled “National Primary Drinking Water Regulations: Long Term 2 Enhanced Surface Water Treatment Rule” (RIN: 2040-AD37). We received the rule on December 20, 2005. It was published in the Federal Register as a final rule on January 5, 2006. 71 Fed. Reg. 654.

The final rule requires the use of treatment techniques, along with monitoring, reporting, and public notification requirements, for all public water systems that use surface water sources. The purposes of the Long Term 2 Enhanced Surface Water Treatment Rule are to protect public health from illness due to *Cryptosporidium* and other microbial pathogens in drinking water and to address risk-risk trade-offs with the control of disinfection byproducts.

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 indicates that EPA complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Robert Robinson, Managing Director, Natural Resources and Environment. Mr. Robinson can be reached at (202) 512-3841.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Louise Wise
Principal Deputy Associate
Administrator
Environmental Protection Agency

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
ENVIRONMENTAL PROTECTION AGENCY
ENTITLED
"NATIONAL PRIMARY DRINKING WATER REGULATIONS:
LONG TERM 2 ENHANCED SURFACE WATER TREATMENT RULE"
(RIN: 2040-AD37)

(i) Cost-benefit analysis

EPA estimates that the annual costs of the final rule are \$93 to \$133 million and \$107 to \$150 million at 3- and 7-percent discount rates, respectively.

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

The Administrator of EPA has certified that the final rule will not have a significant economic effect 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 has determined that the final rule contains a federal mandate that may result in expenditures of \$100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year. Therefore, EPA has prepared the statement and analysis required by section 202 of the Act, and the analysis is contained in the preamble to the final rule.

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

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

The final rule was issued using the notice and comment procedures found at 5 U.S.C. 553. On August 11, 2003, EPA published a Notice of Proposed Rulemaking in the Federal Register. 68 Fed. Reg. 47640. In the preamble to the final rule, the comments to the proposal are discussed.

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

The final rule contains information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The collections have been approved by OMB and assigned Control No. 2040-0266.

Statutory authorization for the rule

The final rule is promulgated under the authority found in section 1412(b)(1)(A) of the Safe Drinking Water Act, as amended in 1996.

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

EPA has concluded that the final rule may have federalism implications, because it may impose substantial direct compliance costs on state or local governments, and the federal government will not provide the funds necessary to pay those costs. The preamble to the final rule contains a discussion of the steps EPA took to consult with state and local governments in accordance with the order.