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B-323830

August 30, 2012

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

The Honorable Fred Upton  
Chairman  
The Honorable Henry A. Waxman  
Ranking Member  
Committee on Energy and Commerce  
House of Representatives

Subject: *Environmental Protection Agency: Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews*

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 “Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews” (RIN: 2060-AP76). We received the rule on July 13, 2012. It was published in the *Federal Register* as a final rule on August 16, 2012. 77 Fed. Reg. 49,490.

The final action finalizes the review of new source performance standards (NSPS) for the listed oil and natural gas source category. In this action the EPA revised the new source performance standards for volatile organic compounds from leaking components at onshore natural gas processing plants and new source performance standards for sulfur dioxide emissions from natural gas processing plants. The EPA also established standards for certain oil and gas operations not covered by the existing standards. In addition to the operations covered by the existing standards, the newly established standards will regulate volatile organic compound emissions from gas wells, centrifugal compressors, reciprocating compressors, pneumatic controllers and storage vessels. This action also finalizes the residual risk and technology review for the Oil and Natural Gas Production source category and the Natural Gas Transmission and Storage source category. This action includes

revisions to the existing leak detection and repair requirements. In addition, the EPA has established in this action emission limits reflecting maximum achievable control technology for certain currently uncontrolled emission sources in these source categories. This action also includes modification and addition of testing and monitoring and related notification, recordkeeping and reporting requirements, as well as other minor technical revisions to the national emission standards for hazardous air pollutants. This action finalizes revisions to the regulatory provisions related to emissions during periods of startup, shutdown and malfunction.

The final rule is effective on October 15, 2012. The incorporation by reference of certain publications listed in the final rule is approved by the Director of the *Federal Register* as of October 15, 2012.

Enclosed is our assessment of 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  
"OIL AND NATURAL GAS SECTOR: NEW SOURCE PERFORMANCE  
STANDARDS AND NATIONAL EMISSION STANDARDS FOR  
HAZARDOUS AIR POLLUTANTS REVIEWS"  
(RIN: 2060-AP76)

(i) Cost-benefit analysis

EPA prepared a Regulatory Impact Analysis (RIA) of the potential costs and benefits associated with this action. The RIA available in the docket describes in detail the empirical basis for the EPA's assumptions and characterizes the various sources of uncertainties affecting the estimates for the implementation year (2015). EPA summarized the monetized benefits, social costs, and net benefits for the final oil and natural gas amendments. EPA found that total cost for New Source Performance Standards (NSPS) was \$15 million, \$3.5 million for National Emissions Standards for Hazardous Air Pollutants (NESHAP), and \$11 million for both the final NSPS and NESHAP in 2008 dollars. EPA notes that the engineering compliance costs are annualized using a 7-percent discount rate. EPA explains that the negative cost for the final NSPS reflects the inclusion of revenues from additional natural gas and hydrocarbon condensate recovery that are estimated as a result of the NSPS. According to EPA, possible explanations for why there appear to be negative cost control technologies are discussed in the engineering costs analysis section in the RIA.

EPA found no monetized benefits, but notes that this is not to imply that there are no benefits or co-benefits of the rules; rather, it is a reflection of the difficulties in modeling the direct and indirect impacts of the reductions in emissions for this industrial sector with the data currently available. Accordingly, EPA states that while it expects that avoided emissions will result in improvements in air quality and reductions in health effects associated with HAP, ozone, and particulate matter (PM) as well as climate effects associated with methane, it determined that quantification of those benefits and co-benefits could not be accomplished for the final rule in a defensible way. Similarly, EPA found no net benefits, but states that for the NSPS, reduced exposure to HAP and climate effects are co-benefits and for the NESHAP, reduced VOC emissions, PM<sub>2.5</sub> and ozone exposure, visibility and vegetation effects and climate effects are co-benefits. EPA explains that the specific control technologies for the final NSPS and NESHAP are anticipated to have minor secondary disbenefits.

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

After considering the economic impact of the combined NSPS and NESHAP amendments on small entities, EPA certifies that this final action will not have a significant 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 states that this final action does not contain a federal mandate and will not result in expenditures of \$100 million or more for state, local, and tribal governments, in the aggregate, or to the private sector in any one year. Thus, EPA states that this final rule is not subject to the requirements of sections 202 or 205.

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

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

EPA published a proposed rule on August 23, 2011. 76 Fed. Reg. 52,738. EPA responded to comments it received in the final action.

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

EPA states that the information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) and notes that the information collection requirements are not enforceable until OMB approves them.

Statutory authorization for the rule

The final rule is authorized by sections 111 and 112 of the Clean Air Act.

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

EPA states that under section 3(f)(1) of Executive Order 12,866 this action is an “economically significant regulatory action” because it is likely to have an annual effect on the economy of \$100 million or more. Accordingly, EPA submitted this action to OMB for review under Executive Order 12,866 and Executive Order 13,563 and any changes made in response to OMB recommendations have been documented in the docket for this action.

Executive Order No. 13,132 (Federalism)

EPA states that the final action does not have federalism implications and will not have substantial direct effects 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. EPA states that the final rules primarily affect private industry, and do not impose significant economic costs on state or local governments. On the contrary, EPA believes that the modification provisions for well completions conducted at gas wells constructed on or before August 23, 2011, will reduce permitting burden borne by the States.