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November 10, 2015

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

The Honorable Fred Upton
Chairman
The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Environmental Protection Agency: National Ambient Air Quality Standards for Ozone*

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 Ambient Air Quality Standards for Ozone” (RIN: 2060-AP38). We received the rule on October 16, 2015. It was published in the *Federal Register* as a final rule on October 26, 2015. 80 Fed. Reg. 65,292. The rule has a stated effective date of December 28, 2015.

The final rule revises the primary and secondary national ambient air quality standards (NAAQS) for ozone to, in EPA’s view, provide requisite protection of public health and welfare, respectively. The rule revises the levels of both standards to 70 parts per billion, and retains their indicators (ozone), forms (fourth-highest daily maximum, averaged across three consecutive years), and averaging times (8 hours). With this rule, EPA is making corresponding revisions in data handling conventions for ozone and changes to the Air Quality Index; revising regulations for the prevention of significant deterioration program to add a transition provision for certain applications; and establishing exceptional events schedules and providing information related to implementing the revised standards.

The rule also revises the ozone monitoring seasons, the Federal Reference Method (FRM) for monitoring ozone in the ambient air, Federal Equivalent Method (FEM) analyzer performance requirements, and the Photochemical Assessment Monitoring Stations network. Along with exceptional events schedules related to implementing the revised ozone standards, this rule applies this same schedule approach to other future new or revised NAAQS and removing regulatory language for expired exceptional events deadlines. The rule changes certain procedures and time periods for evaluating potential FRMs and equivalent methods, including making the requirements for nitrogen dioxide consistent with the requirements for ozone, and removing a requirement EPA deems obsolete for the annual submission of Product

Manufacturing Checklists by manufacturers of FRMs and FEMs for monitors of fine and coarse particulate matter.

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
“NATIONAL AMBIENT AIR QUALITY
STANDARDS FOR OZONE”
(RIN: 2060-AP38)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) prepared an analysis of the potential costs and benefits associated with this final rule. Except for California, EPA estimated the total costs for the United States to be \$1.4 billion in 2025 under a 70 parts per billion (ppb) standard at a 7 percent discount rate. EPA also estimated that the 70 ppb standard would have total health benefits of between \$2.9 billion and \$5.9 billion, with net benefits between \$1.5 billion and \$4.5 billion. EPA estimated that the 70 ppb standard would result in 96 to 160 ozone-related premature deaths avoided and 220 to 500 particulate matter-related premature deaths avoided in 2025. EPA’s estimates exclude additional health and welfare benefits that could not be quantified.

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

EPA certified 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 does not contain an unfunded mandate of \$100 million or more and does not significantly or uniquely affect small governments.

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

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

On December 17, 2014, EPA published a proposed rule. 79 Fed. Reg. 75,234. EPA held three public hearings to provide direct opportunity for oral testimony by the public on the proposal. The hearings were held on January 29, 2015, in Arlington, Texas, and Washington, D.C., and on February 2, 2015, in Sacramento, California. At these public hearings, EPA heard testimony from nearly 500 individuals representing themselves or specific interested organizations. Additionally, approximately 430,000 written comments were received from various commenters during the public comment period on the proposed rule, approximately 428,000 as part of mass mail campaigns. EPA responded to comments in the final rule.

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

EPA determined that this final rule contains an information collection requirement under the Act. EPA estimated that this information collection will involve 158 respondents for a total cost of approximately \$24,597,485 (total capital, labor, and operation and maintenance) plus a total burden of 339,930 hours for the support of all operational aspects of the entire ozone monitoring network. The labor costs associated with these hours are \$20,209,966. Also included in the total are other costs of operations and maintenance of \$2,254,334 and equipment and contract costs of \$2,133,185. The actual labor cost increase to expand the ozone monitoring seasons is \$2,064,707. In addition to the costs at the state, local, and tribal air quality management agencies, there is a burden to EPA of 41,418 hours and \$2,670,360.

Statutory authorization for the rule

EPA promulgated this final rule under the authority of section 101 of title 23 and section 7401 to 7671q of title 42, United States Code.

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

EPA determined that this final rule is an economically significant regulatory action under the Order, and it was submitted to the Office of Management and Budget for review.

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 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.