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Washington, DC 20548

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February 20, 2020

The Honorable John Barrasso  
Chairman  
The Honorable Thomas R. Carper  
Ranking Member  
Committee on Environment and Public Works  
United States Senate

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

Subject: *Environmental Protection Agency: Renewable Fuel Standard Program: Standards for 2020 and Biomass-Based Diesel Volume for 2021 and Other Changes*

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 “Renewable Fuel Standard Program: Standards for 2020 and Biomass-Based Diesel Volume for 2021 and Other Changes” (RIN: 2060-AU42). We received the rule on January 14, 2020. It was published in the *Federal Register* as a final rule on February 6, 2020. 85 Fed. Reg. 7016. The effective date of the rule is April 6, 2020.

The final rule establishes the annual percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel that apply to gasoline and diesel transportation fuel produced or imposed in the year 2020. EPA states in the rule that by relying on statutory waiver authority that is available when the projected cellulosic biofuel production volume is less than the applicable volume specified in the Clean Air Act, EPA establishes volume requirements for cellulosic biofuel, advanced biofuel, and total renewable fuel that are below the statutory volume targets. EPA also states that it is establishing the applicable volume of biomass-based diesel for 2021 and finalizing changes to the percentage standard calculations to account for volumes of gasoline and diesel it projects will be exempted from the renewable volume obligations. In addition, EPA states that this rule finalizes several regulatory changes to the Renewable Fuel Standard program including new pathways, flexibilities for regulated parties, and clarifications of existing regulations.

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. 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 Janet Temko-Blinder, Assistant General Counsel, at (202) 512-7104.

signed

Shirley A. Jones  
Managing Associate General Counsel

Enclosure

cc: Mary Manibusan  
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  
“RENEWABLE FUEL STANDARD PROGRAM:  
STANDARDS FOR 2020 AND BIOMASS-BASED DIESEL  
VOLUME FOR 2021 AND OTHER CHANGES”  
(RIN: 2060-AU22)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) summarized the costs and benefits of this final rule in the form of illustrative cost estimates. EPA estimates that the cost difference estimates for cellulosic ethanol ranges from \$0.46–\$3.30 per ethanol-equivalent gallon. EPA stated that the amount of cellulosic biofuel waived in this rule results in approximately \$4.6–\$33 billion in cost savings. Finally, EPA estimates that the total costs with the increase in the cellulosic biofuel volume is calculated as the range of \$(1.1)–\$17 million.

EPA also stated that it did not quantitatively assess other direct and indirect costs or benefits of changes in renewable fuel volumes. EPA determined that these costs and benefits may include infrastructure costs, investment, climate change impacts, air quality impacts, and energy security benefits, which EPA states are all, to some degree, affected by the annual volumes.

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

EPA certified 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 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 July 29, 2019, EPA published a proposed rule. 84 Fed. Reg. 36762. EPA held public hearings on July 31, 2019, and October 30, 2019, at which many parties provided both verbal and written testimony. EPA responded to comments in this final rule.

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

EPA determined this final rule contains information collection requirements (ICRs) under the Act. The first ICR is titled “Recordkeeping and Reporting for the Renewable Fuel Standard Program” (Office of Management and Budget (OMB) Control Number 2060-0725). EPA stated

that there are no reporting burden changes to this existing ICR. EPA stated that the new ICR related to the amendments to the Renewable Fuel Standard program regulations will result in an estimated total burden of 32,548 hours per year and an estimated total cost of \$3,511,812 per year and can be found under OMB Control Number 2060-NEW.

Statutory authorization for the rule

EPA promulgated this final rule pursuant to sections 7414, 7522–24, 7542, 7545, and 7601 of title 42, United States Code.

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

EPA determined this final rule is economically significant under the Order and submitted it to OMB for review.

Executive Order No. 13,132 (Federalism)

EPA determined this final rule does not have federalism implications and does not impose substantial direct effects on the state, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.