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Washington, DC 20548

B-299288

January 9, 2007

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

The Honorable James Oberstar
Chairman
The Honorable John Mica
Ranking Minority Member
Committee on Transportation and Infrastructure
House of Representatives

Subject: *Environmental Protection Agency: Oil Pollution Prevention; Spill Prevention, Control, and Countermeasure Plan Requirements--Amendments*

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 Pollution Prevention; Spill Prevention, Control, and Countermeasure Plan Requirements--Amendments" (RIN: 2050-AG23). We received the rule on December 14, 2006. It was published in the Federal Register as a final rule on December 26, 2006. 71 Fed. Reg. 77266.

The final rule amends the Spill Prevention, Control, and Countermeasure (SPCC) Plan requirements by, among other measures, providing the option for owners and operators of facilities that store 10,000 gallons of oil or less to self-certify their SPCC Plans in lieu of review and certification by a professional engineer. Also, the rule provides an alternative to the general secondary containment requirement without requiring a determination of impracticability for facilities that have particular types of oil-filled equipment. In addition, the rule exempts particular vehicle fuel tanks and other on-board bulk oil storage containers used for motive power, and exempts mobile refuelers from the sized secondary containment requirements for bulk storage containers.

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
"OIL POLLUTION PREVENTION; SPILL PREVENTION, CONTROL, AND
COUNTERMEASURE PLAN REQUIREMENTS—AMENDMENTS"
(RIN: 2050-AG23)

(i) Cost-benefit analysis

EPA has prepared a cost-benefit analysis for the final rule. EPA estimates the annual compliance cost savings to be (at a discounted 3-percent rate):

- \$37.9 million for Qualified Facilities,
- \$53.1 million for Qualified Oil-Filled Equipment,
- \$1.07 million for Motive Power Containers, and
- \$34.4 million for mobile refuelers.

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

EPA has certified that the final rule will not have a significant economic impact on a substantial number of small entities because the final rule relieves the regulatory burden.

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

The final rule does not contain either an intergovernmental or private sector mandate, as defined in title II, of more than \$100 million in any one year.

(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 July 17, 2002, EPA issued a final rule amending the SPCC. Following litigation and two EPA-issued Notices of Data Availability, EPA published a Notice of Proposed Rulemaking on December 12, 2005. 70 Fed. Reg. 73524. The preamble to the final rule discusses the comments received.

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

The final rule contains an information collection subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. EPA has submitted the required information to OMB and states that the final rule will result in a 19-percent reduction in the annual burden hours of 2,695,329 without the final rule and a new annual burden of 2,191,069 hours.

Statutory authorization for the rule

The final rule was promulgated under the authority found at 33 U.S.C. 1251 et seq. and 33 U.S.C. 2720.

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)

The final rule does not have federalism implications under the order.