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Washington, DC 20548

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November 16, 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: Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category*

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 "Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category" (RIN: 2040-AF14). We received the rule on October 7, 2015. It was published in the *Federal Register* as a final rule on November 3, 2015. 80 Fed. Reg. 67,838.

The final rule establishes nationally applicable limits on the amount of toxic metals and other harmful pollutants that steam electric power plants are allowed to discharge in several of their largest sources of wastewater. EPA estimates that, on an annual basis, the rule will reduce the amount of toxic metals, nutrients, and other pollutants that steam electric power plants are allowed to discharge by 1.4 billion pounds and will reduce water withdrawal by 57 billion gallons.

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
“EFFLUENT LIMITATIONS GUIDELINES AND STANDARDS FOR
THE STEAM ELECTRIC POWER GENERATING
POINT SOURCE CATEGORY”
(RIN: 2040-AF14)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) analyzed the costs and benefits of this final rule. EPA estimated the total monetized social benefits to be between \$451 million and \$566 million at a 3 percent discount rate and to be between \$387 million and \$478 million at a 7 percent discount rate. EPA estimated the total social costs to be \$480 million at a 3 percent discount rate and \$471 million at a 7 percent discount rate. All estimates were in 2013 dollars.

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

EPA certified that this action 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 contains a federal mandate that may result in expenditures of \$100 million or more (annually, adjusted for inflation) for state, local, and tribal governments, in the aggregate, or the private sector in any one year (\$141 million in 2013). Accordingly, EPA prepared a written statement under the Act. EPA consulted with governmental entities affected by this rule. Further, EPA identified and analyzed a reasonable number of regulatory alternatives. EPA also concluded that the final rule 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 June 7, 2013, EPA published a proposed rule. 78 Fed. Reg. 34,432. EPA received over 200,000 comments. EPA also held a public hearing on July 9, 2013. EPA responded to comments in the final rule.

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

EPA stated that the Office of Management and Budget (OMB) has previously approved the information collection requirements under OMB control number 2040-0281. EPA estimated no net change in the cost burden to federal or state government or dischargers associated with this final rule.

Statutory authorization for the rule

EPA promulgated this final rule under the authority of sections 301, 304, 306, 307, 308, 402, and 501 of the Clean Water Act. 33 U.S.C. §§ 1311, 1314, 1316, 1317, 1318, 1342, 1361.

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

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

Executive Order No. 13,132 (Federalism)

EPA determined that this final rule has 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. EPA estimates that the maximum aggregate compliance cost in any one year to governments (excluding the federal government) is \$171.4 million. EPA consulted with elected state and local officials or their representative national organizations while developing the rule. These consultations included a briefing on October 11, 2011, attended by representatives from the National League of Cities, the National Conference of State Legislatures, the National Association of Counties, the National Association of Towns and Townships, the U.S. Conference of Mayors, the Council of State Governments, the County Executives of America, and the Environmental Council of the States. Policy and professional groups such as the National Rural Electric Cooperative Association, America's Clean Water Agencies, and the American Public Power Association also participated in the briefing, as did environmental and natural resource policy staff representing nine state agencies and approximately 25 local governments and utilities. EPA concluded the requirements of this rule are economically achievable for the steam electric industry as a whole, including plants owned by state or local government entities.