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December 22, 2016

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: Renewable Fuel Standard Program: Standards for 2017 and Biomass-Based Diesel Volume for 2018*

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 2017 and Biomass-Based Diesel Volume for 2018” (RIN: 2060-AS72). We received the rule on December 1, 2016. It was published in the *Federal Register* as a final rule on December 12, 2016, with an effective date of February 10, 2017. 81 Fed. Reg. 89,746.

The final rule establishes the annual percentage standards for cellulosic biofuel, biomass based-diesel, advanced biofuel, and total renewable fuel that apply to all motor vehicle gasoline and diesel produced or imported in the year 2017. Additionally, the final rule establishes the four percentage standards applicable to obligated parties, namely producers and importers of gasoline and diesel, based on the corresponding volume requirements. Finally, the final rule establishes the applicable volume of biomass-based diesel for 2018.

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
“RENEWABLE FUEL STANDARD PROGRAM: STANDARDS FOR
2017 AND BIOMASS-BASED DIESEL VOLUME FOR 2018”
(RIN: 2060-AS72)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) summarized the costs and benefits of this final rule. EPA provided illustrative cost estimates for three scenarios. The three scenarios EPA discussed were (1) if the entire change in the advanced standards is met with soybean oil biomass-based diesel, (2) if the entire change in the advanced standards is met with sugarcane ethanol from Brazil, and (3) if the entire change in the total renewable fuel volume standards that can be satisfied with conventional (i.e., non-advanced) renewable fuel is met with corn ethanol. Overall, EPA found that the summation of the cost of the illustrative scenarios ranged from \$686 - \$1,550 million. However, EPA stated that there are several caveats that should be considered when interpreting these cost estimates. These caveats include the heterogeneity in the costs associated with the different feedstocks that can be used to produce ethanol and biodiesel.

EPA found that the benefits of this final rule include rural economic development, national security benefits from more diversified fuel sources, and increased volumes of renewable fuels that will reduce greenhouse gas emissions. EPA stated that a number of the benefits were difficult to quantify.

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

EPA determined that this final rule 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 found that this final rule contains a federal mandate that may result in expenditures of \$100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year. EPA prepared a written statement in the final rule as required under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA). EPA also found that this final rule is not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might 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 May 31, 2016, EPA published a proposed rule. 81 Fed. Reg. 34,778. EPA also held a public hearing on June 9, 2016, at which many parties provided both verbal and written testimony. EPA responded to comments in the final rule.

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

EPA determined that this final rule does not impose any new information collection burden under the Paperwork Reduction Act.

Statutory authorization for the rule

EPA stated that it promulgated this rule under 42 U.S.C. § 7545, 42 U.S.C. § 7414, 42 U.S.C. § 7542, and 42 U.S.C. § 7601(a).

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

EPA determined that this final rule is an economically significant regulatory action. EPA submitted the rule to the Office of Management and Budget for review and prepared an analysis of the illustrative costs associated with this final rule.

Executive Order No. 13,132 (Federalism)

EPA found that this final rule 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.