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United States Government Accountability Office
Washington, DC 20548

B-299062

November 21, 2006

The Honorable James M. Inhofe
Chairman
The Honorable James M. Jeffords
Ranking Minority Member
Committee on Environment and Public Works
United States Senate

The Honorable Joe Barton
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Energy and Commerce
House of Representatives

Subject: *Environmental Protection Agency: National Primary Drinking Water Regulations: Ground Water Rule*

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 Primary Drinking Water Regulations: Ground Water Rule" (RIN: 2040-AA97). We received the rule on October 19, 2006. It was published in the Federal Register as a final rule on November 8, 2006. 71 Fed. Reg. 65574.

The final rule establishes a National Primary Drinking Water Regulation, the Ground Water Rule, to provide for increased protection against microbial pathogens in public water systems that use ground water sources. The Ground Water Rule establishes a risk-targeted approach to target ground water systems that are susceptible to fecal contamination, instead of requiring disinfection for all ground water systems.

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
"NATIONAL PRIMARY DRINKING WATER REGULATIONS:
GROUND WATER RULE"
(RIN: 2040-AA97)

(i) Cost-benefit analysis

EPA prepared an economic analysis of the final rule that estimates the costs to state, local, and tribal governments to be \$41.5 million to \$41.9 million depending on whether a 3-percent or 7-percent discount rate is used. Public water systems that are privately owned will incur costs of \$20.3 million to \$20.4 million per year.

The monetized benefits are estimated to be approximately \$20 million (\$10 million using traditional cost-of-illness values) in addition to the non-monetized benefits such as decreased incidence of acute viral disease endpoints and bacterial illness.

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

EPA prepared an Initial Regulatory Flexibility Analysis and a Final Regulatory Flexibility Analysis in connection with the proposed rule and the final rule, respectively. Both analyses comply with the requirements of the Act. In the preamble to the final rule, EPA discusses the steps it took to reduce the burden on small water systems.

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

EPA states that 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. The rule is estimated to cost state, local and tribal governments \$41.5 to \$41.9 million. Public water systems that are privately owned will incur total costs of \$20.3 million to \$20.4 million per 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 May 10, 2000, EPA published a Notice of Proposed Rulemaking in the

Federal Register. 65 Fed. Reg. 30194. In response, EPA received over 250 comments. The issuance of the proposed rule followed a gathering of information, which began in 1987 and followed numerous public meetings, and a draft preamble, which was distributed among stakeholders.

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

The final rule contains an information collection that has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. It has been assigned OMB Control No. 2040-0271. EPA estimates the annual burden for the collection information to be 385,264 hours.

Statutory authorization for the rule

The final rule is promulgated under the authority found in 42 U.S.C. 300f, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-4, 300j-9, and 300j-11.

Executive Order No. 12866

The final rule was reviewed by OMB and found to be a “significant regulatory action” under the order.

Executive Order No. 13132 (Federalism)

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