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United States Government Accountability Office
Washington, DC 20548

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December 22, 2008

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

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

Subject: *Environmental Protection Agency: Oil Pollution Prevention; Spill Prevention, Control, and Countermeasure Rule 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 Rule Requirements--Amendments" (RIN: 2050-AG16). We received the rule on December 8, 2008. It was published in the *Federal Register* as a final rule on December 5, 2008. 73 Fed. Reg. 74,236.

The final rule makes amendments to the Spill Prevention, Control, and Countermeasure (SPCC) rule. The final rule exempts hot-mix asphalt, pesticide application equipment and related mix containers, heating oil containers at single family residences, and underground oil storage tanks at nuclear power generation facilities from the SPCC rule, and exempts non-transportation related tank trucks from the sized secondary containment requirements. The final rule makes amendments to the definition of "facility," the facility diagram requirement, the general secondary containment requirement, the security requirements, and the integrity testing requirements. Finally, the final rule defines "loading/unloading rack," provides streamlined requirements for a subset of qualified facilities, and streamlines a number of requirements for onshore oil production facilities.

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 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
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
"OIL POLLUTION PREVENTION; SPILL PREVENTION, CONTROL, AND
COUNTERMEASURE RULE REQUIREMENTS–AMENDMENTS"
(RIN: 2050-AG16)

(i) Cost-benefit analysis

EPA prepared a cost-benefit analysis in conjunction with the final rule. EPA estimated the compliance costs savings associated with each of the 16 components of the regulatory amendments in the final rule. EPA estimates the total costs savings for these regulatory amendments to be \$176 million on an annualized basis. EPA notes that the oil production sector and farms will benefit from multiple components of the final rule, and estimates the total cost savings to farm owners and operators to be \$13 million on an annualized basis and the total cost savings to owners and operators of oil production facilities to be \$116 million on an annualized basis.

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

EPA certified that this final rule will not have as significant economic impact on a substantial number of small entities and has further concluded that this final rule will relieve the regulatory burden for 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 has determined that this final rule does not contain 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. In fact, EPA determined that the final rule would reduce compliance costs in the public sector by up to \$176 million per year. EPA also determined that the final rule 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.

EPA published a notice of proposed rulemaking in the *Federal Register* on October 15, 2007. 72 Fed. Reg. 58,378. EPA received comments on the proposed rule and responded to the comments in the final rule. 73 Fed. Reg. 74,236.

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

EPA submitted the information collection requirements for this final rule to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act, and the requirements are not enforceable until OMB approves them. EPA estimates that the final rule will result in an estimated 640,000 regulated facilities being subject to it, but the changes to the Spill Prevention, Control, and Countermeasure (SPCC) rule requirements will result in a decrease of approximately 1.3 million hours in reporting and recordkeeping burden and will reduce capital and operation and management costs by approximately \$53 million on an annualized basis.

Statutory authorization for the rule

The final rule is authorized by section 311(j)(1)(C) of the Clean Water Act. 33 U.S.C. § 1321(j)(1)(C).

Executive Order No. 12,866

EPA prepared a regulatory impact analysis and submitted this final rule to OMB for review under the Order.

Executive Order No. 13,132 (Federalism)

EPA has determined that this final rule does not have federalism implications.