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CLEAN AIR ACT

EPA Should Use Available Data to Monitor the Effects of Its Revisions to the New Source Review Program

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Highlights

Highlights of GAO-03-947, a report to the Ranking Minority Member of the Committee on Environment and Public Works, U.S. Senate, and another requester

Why GAO Did This Study

A recent Environmental Protection Agency (EPA) final rule changing the Clean Air Act's New Source Review (NSR) program—a key means to protect public health and enhance air quality—has been under scrutiny by the Congress, industry, environmental groups, state and local air quality agencies, and the courts. GAO was asked to determine the basis of EPA's conclusions that (1) the rule's economic impacts would not be significant enough to merit a detailed analysis and (2) the NSR program, prior to the rule, discouraged some energy efficiency projects. GAO, among other things, reviewed EPA's analysis of the rule and its impacts, as well as guidance from EPA and the Office of Management and Budget (OMB) on analyzing such impacts. GAO also met with industry and environmental stakeholders.

What GAO Recommends

Because of the lack of data and uncertainties about the rule's impacts, we recommend that EPA determine what data are available to monitor the rule's effects, identify additional data needs and ways to fill them, and use the monitoring results to determine whether the rule has created adverse effects that the agency needs to address. EPA agreed with GAO's conclusions and recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-03-947.

To view the full report, including the scope and methodology, click on the link above. For more information, contact John Stephenson at stephensonj@gao.gov.

What GAO Found

Consistent with agency guidance, EPA used a limited screening analysis that relied on staff's professional judgment and public comments from earlier reform proposals to conclude that the final rule would decrease emissions and health risks and not impose significant costs. EPA determined that neither the rule's benefits nor its costs would exceed a $100 million threshold that triggers requirements to conduct a more comprehensive assessment. EPA issued the rule to streamline the NSR permitting process and provide flexibility to industry. For example, the rule provides a mechanism for companies to develop plantwide emissions limits, which would allow them to make changes in one part of a facility's operations as long as they offset emissions increases with decreases elsewhere within the facility. While OMB agreed with EPA's conclusion that the rule would not have significant economic effects, it determined that the rule was significant for policy reasons. Therefore, OMB asked EPA if it could better quantify the rule's potential impacts, but the agency lacked the necessary data to do so. EPA lacked comprehensive data on the program's economic impacts, and could not predict how many facilities would use the rule's optional provisions. Several states and environmental groups disagree with EPA's conclusions, claiming that it will enable facilities to increase their emissions. These parties have filed suit against EPA challenging the rule and also have petitioned EPA to reconsider the rule. We did not identify any comprehensive assessments that contradicted or supported EPA's conclusions or the assertions of those who oppose the rule. Because of the data limitations, it was not possible to verify EPA's conclusions about the rule's effects.

Because it lacked comprehensive data, EPA relied on anecdotes from the four industries it believes are most affected by NSR to conclude that the NSR program (prior to the rule) discouraged some energy efficiency projects, such as upgrades to industrial boilers, including some that would have decreased emissions. Because the information is anecdotal, EPA's findings do not necessarily represent the program's effects across the industries subject to the program. Several environmental groups disputed EPA's findings. One such group said that factors other than NSR, such as economic downturns, discouraged the projects. Furthermore, EPA's conclusion that some projects would have decreased emissions assumed that facilities would not increase production after performing the projects. However, according to EPA and the executive director of an industry group, companies often expand production after implementing energy efficiency projects because it is advantageous to maximize production at the most efficient facilities. Such expansions could increase emissions and related health risks, although EPA asserts that this would be offset by decreased production and emissions at less efficient facilities.