



GAO

Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

B-287105

February 1, 2001

The Honorable Bob Smith
Chairman
The Honorable Harry Reid
Ranking Minority Member
Committee on Environment and Public Works
United States Senate

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

Subject: Environmental Protection Agency: Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements

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 "Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements" (RIN: 2060-AI69). We received the rule on December 27, 2000. It was published in the Federal Register as a final rule on January 18, 2001. 66 Fed. Reg. 5002.

The final rule covers the second of two phases in a comprehensive nationwide program for controlling emissions from heavy-duty engines and vehicles. The second phase is based on the use of high-efficiency catalytic exhaust emission standards and the consideration of the vehicle and its fuel as a single system. Because these devices are damaged by sulfur, the rule also reduces the level of sulfur in highway diesel fuel significantly by mid-2006.

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 the 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 Bob 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: Mr. Jay Benforado
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
"CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES:
HEAVY-DUTY ENGINE AND VEHICLE STANDARDS AND
HIGHWAY DIESEL FUEL SULFUR CONTROL REQUIREMENTS"
(RIN: 2060-AI69)

(i) Cost-benefit analysis

EPA performed a Regulatory Impact Analysis that assesses the feasibility, costs, benefits, and cost-effectiveness of the final rule. EPA submitted the entire analysis to our Office with its submission of the rule, and the analysis is summarized in the preamble to the final rule.

EPA estimates the annual costs starting out at less than \$1.0 billion in year 2006 and increasing during the initial years to about \$3.6 billion in 2010. Thereafter, total annualized costs are projected to continue increasing due to the effects of projected growth in engine sales and fuel consumption.

EPA estimates the total monetized benefits of the rule in 2030 are expected to be approximately \$70.4 billion, which are driven primarily by the value placed on the reductions in premature deaths.

(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 and final rules, respectively. In addition, EPA convened a Small Business Advocacy Review Panel to obtain advice and recommendations from small entities.

The analyses comply with the requirements of the Act. They describe the need for the rule, issues raised by public comment, the types and numbers of small entities to which the rule will apply, and the steps taken to minimize the impact on small entities.

Among the steps taken to assist small refiners are allowing time for technologies to be proven out by larger refiners before small refiners have to put them in place and by allowing small refiners more time to comply will increase the availability of engineering and construction resources.

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

The final rule contains a private sector mandate, as defined in title II, of more than \$100 million in any one year.

EPA has prepared the written statement required by section 202 including the statutory authority, a discussion of the costs and benefits, and the alternatives considered.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

Instead of the notice and comment procedures in the Administrative Procedure Act, EPA promulgated this rule using the procedures, which have similar notice and comment requirements, contained in section 307(d) of the Clean Air Act, as amended. 42 U.S.C. 7607(d). The use of these procedures regarding this rule is mandated by sections 307(d)(1)(E) and (K) of the Clean Air Act. 42 U.S.C. 7607(d)(1)(E) and (K).

On May 13, 1999, EPA issued an Advanced Notice of Proposed Rulemaking (64 Fed. Reg. 26142) and on June 2, 2000, issued a Notice of Proposed Rulemaking (65 Fed. Reg. 35430). The comments received from these two notices and following five public hearings are discussed in the preamble to the final rule.

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

The final rule contains information collections subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The current diesel fuel recordkeeping document is approved under OMB No. 2060-0308.

The information collection relating to low sulfur diesel fuel, which will become effective in 2006, will be published and comments will be solicited prior to any required information collection.

Statutory authorization for the rule

The portion of the final rule concerning engine controls was promulgated under the authority of sections 202, 203, 206, 207, 208, and 301 of the Clean Air Act, as amended, 42 U.S.C. 7521, 7522, 7525, 7541, 7542, and 7601. The authority for the fuel controls is found at sections 211(c) and 211(i) of the CAA, as amended, 42 U.S.C. 7545(c) and (i).

Executive Order No. 12866

The final rule was reviewed by the Office of Management and Budget and found to be an “economically significant” regulatory action.

Executive Order No. 13132 (Federalism)

EPA has determined that the final rule does not have federalism implications under the order. However, EPA did consult with representatives of various state and local governments in developing the final rule.