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B-334963

January 31, 2023

The Honorable Thomas R. Carper
Chairman
The Honorable Shelley Moore Capito
Ranking Member
Committee on Environment and Public Works
United States Senate

The Honorable Cathy McMorris Rodgers
Chair
The Honorable Frank Pallone, Jr.
Ranking 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*

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) titled “Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards” (RIN: 2060-AU41). We received the rule on December 21, 2022. It was published in the *Federal Register* as a final rule on January 24, 2023. 88 Fed. Reg. 4296. The effective date is March 27, 2023.

According to EPA, this final rule implements a program to further reduce air pollution, including ozone and particulate matter (PM), from heavy-duty engines and vehicles across the United States. EPA stated that the final program includes new emission standards that are significantly more stringent and that cover a wider range of heavy-duty engine operating conditions compared to today's standards; further, the program requires these more stringent emissions standards to be met for a longer period of when these engines operate on the road. EPA also stated that heavy-duty vehicles and engines are important contributors to concentrations of ozone and PM and their resulting threat to public health, which includes premature death, respiratory illness (including childhood asthma), cardiovascular problems, and other adverse health impacts. EPA stated further that the final rule promulgates new numeric standards and changes key provisions of the existing heavy-duty emission control program, including the test procedures, regulatory useful life, emission-related warranty, and other requirements. EPA explained that the provisions in the final rule will further reduce the air quality impacts of heavy-duty engines across a range of operating conditions and over a longer period of the operational life of heavy-duty engines. EPA noted that the requirements in the final rule will lower emissions of nitrogen oxides and other air pollutants (PM, hydrocarbons, carbon monoxide, and air toxics) beginning no later than model year 2027. Lastly, EPA stated that it is finalizing limited amendments to the regulations that implement air pollutant emission standards

for other sectors (e.g., light-duty vehicles, marine diesel engines, locomotives, and various other types of nonroad engines, vehicles, and equipment).

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. 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 Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive style with a large initial 'S' and a long, sweeping underline.

Shirley A. Jones
Managing Associate General Counsel

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
ENVIRONMENTAL PROTECTION AGENCY
TITLED
“CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES:
HEAVY-DUTY ENGINE AND VEHICLE STANDARDS”
(RIN: 2060-AU41)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) prepared an economic analysis for this final rule. EPA stated that total costs for the final program relative to the baseline (or no action scenario) range from \$3.9 billion in 2027 to \$4.7 billion in 2045 (2017 dollars, undiscounted). EPA also stated that annual benefits of the final rule will be larger than the annual costs in 2045, with annual net benefits of \$6.9 and \$29 billion assuming a 3 percent discount rate, and net benefits of \$5.8 and \$25 billion assuming a 7 percent discount rate.

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

EPA certified that this final rule will not have a significant economic impact on a substantial number of small entities under the RFA. EPA stated that it has determined that 203 of the 251 small entities subject to the rule are expected to experience an impact of less than 1 percent of annual revenue; 48 small entities are expected to experience an impact of 1 to less than 3 percent of annual revenue; and no small entity is expected to experience an impact of 3 percent or greater of annual revenue.

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

EPA determined that this final rule contains no unfunded federal mandate for state, local, or tribal governments as described in the Act, and does not significantly or uniquely affect small governments. EPA also stated that the rule imposes no enforceable duty on any state, local or tribal government.

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

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

On March 28, 2022, EPA’s proposed rule was published in the *Federal Register*. 87 Fed. Reg. 17414. EPA stated that it held three virtual public hearings in April 2022. EPA also stated that it received more than 260,000 public comments. EPA stated further that a broad range of stakeholders provided comments, including state and local governments, heavy-duty engine manufacturers, emissions control suppliers and others in the heavy-duty industry, environmental organizations, environmental justice organizations, state, local, and tribal organizations, consumer groups, labor groups, private citizens, and others. Lastly, EPA stated that it briefly discusses several of the key issues raised in the preamble of the final rule and in the Response to Comments document that is available in the public docket for this rule.

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

EPA determined that this final rule contains information collection requirements (ICRs) under the PRA and submitted the ICRs to Office of Management and Budget (OMB) for approval. EPA stated that the rule builds on existing certification and compliance requirements. EPA stated further that the existing requirements are covered under two ICRs: (1) Emissions Certification and Compliance Requirements for Nonroad Compression-ignition Engines and On-highway Heavy Duty Engines (OMB Control Number 2060-0287); and (2) Certification and Compliance Requirements for Nonroad Spark-ignition Engines (OMB Control Number 2060-0338). EPA estimates the total burden hours of the ICRs to be 16,951 hours per year and the total estimated cost to be \$3,313,619 per year, which includes an estimated \$1,685,848 annualized capital or maintenance and operational costs.

Statutory authorization for the rule

EPA promulgated this final rule pursuant to sections 1901–1912 of title 33; sections 7401–7671q of title 42; and sections 32901–32929q of title 49, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

EPA determined that this final rule is economically significant and it was submitted to OMB for review.

Executive Order No. 13132 (Federalism)

EPA determined that this final rule does not have federalism implications. EPA stated that the final rule will not have substantial direct effects on states, on the relationship between the national government and states, or on the distribution of power and responsibilities among the various levels of government.