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November 24, 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 John D. Dingell  
Chairman  
The Honorable Joe Barton  
Ranking Minority Member  
Committee on Energy and Commerce  
House of Representatives

Subject: *Environmental Protection Agency: National Ambient Air Quality Standards for Lead*

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 Ambient Air Quality Standards for Lead” (RIN: 2060-AN83). We received the rule on October 17, 2008. It was published in the *Federal Register* as a final rule on November 12, 2008. 73 Fed. Reg. 66,964.

The final rule revises the primary and secondary national ambient air quality standards for lead to provide requisite protection of public health and welfare, respectively. The final rule revises various elements of the primary standard to provide increased protection for children and other at-risk populations against an array of adverse health effects, including revising the level to 0.15  $\mu\text{g}/\text{m}^3$  (micrograms per cubic meter). The final rule retains the current indicator of lead in total suspended particles and revises the averaging time to a rolling 3-month period with a maximum form, evaluated over a 3-year period. The final rule revises the secondary standard to be identical in all respects to the revised primary standard. Lastly, the final rule revises data handling procedures, the treatment of exceptional events and the ambient air monitoring, and reporting requirements for lead.

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. 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 Michael R. Volpe, Assistant General Counsel, at (202) 512-8236.

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  
"NATIONAL AMBIENT AIR QUALITY STANDARDS FOR LEAD"  
(RIN: 2060-AN83)

(i) Cost-benefit analysis

EPA prepared a cost-benefit analysis as part of a Regulatory Impact Analysis for the final rule. EPA estimated that the costs will range between \$150 million and \$2.8 billion, at a 3-percent discount rate, and between \$170 million and \$3.2 billion, at a 7-percent discount rate. The benefits will range between an estimated \$3.7 and \$6.9 billion, at a 3-percent discount rate, and between \$650 million and \$2.6 billion at a 7-percent discount rate.

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

EPA has certified that this final rule will not have a significant economic impact on a substantial number of 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 determined that the 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. EPA also determined that the final rule contains no regulatory requirements that might significantly or uniquely affect small governments. In fact, EPA determined that the final rule imposes no enforceable duty on any small government.

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

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

EPA issued an advance notice of proposed rulemaking (ANPR) on December 5, 2007. 72 Fed. Reg. 71,488. On December 12-13, 2007, the Clean Air Scientific Advisory Committee (CASAC) held a public meeting to provide advice and recommendations to the Administrator based on its review of the ANPR and previously released reports. A public comment period was open through January 16, 2008, and EPA received comments from nearly 9,000 private citizens, 13 state and local agencies, 1 federal agency, 3 regional or national associations of government agencies or

officials, 15 nongovernmental environmental or public health organizations, and 5 businesses or industry organizations.

A proposed decision of revisions to the ANPR was signed May 1, 2008, and published in the *Federal Register* on May 20, 2008. 73 Fed. Reg. 29,183. On June 12, 2008, EPA held two public hearings concurrently in Baltimore, Maryland, and St. Louis, Missouri, to provide direct opportunities for oral testimony by the public on the proposal. EPA heard testimony from 33 individuals at the hearings. EPA also received a large number of written comments during the comment period on the proposal, and responds to those comments in the final rule.

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

EPA will submit the informational collection requirements in the final rule to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act, and the requirements are not enforceable until approved by OMB. EPA estimates that the annual average reporting burden for the information collection requirements for 140 respondents will increase by a total of 22,376 labor hours per year with an increase of \$1,910,059 per year.

Statutory authorization for the rule

The final rule is authorized by sections 108 and 109 of the Clean Air Act, as codified at 42 U.S.C. §§ 7408 – 7409.

Executive Order No. 12,866

EPA submitted the final rule to OMB for review under the Order and documented any changes made in response to OMB recommendations in the docket for the final rule. EPA also prepared a Regulatory Impact Analysis of the potential costs and benefits associated with the rule. Because the Clean Air Act and judicial decisions have made clear that the economic and technical feasibility of attaining ambient standards are not to be considered in setting or revising national ambient air quality standards, the results of the analysis were not considered in making the final rule.

Executive Order No. 13,132 (Federalism)

The final rules states that it does not have federalism implications.