



United States
General Accounting Office
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Office of the General Counsel

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December 16, 1998

The Honorable James M. Jeffords
Chairman
The Honorable Edward M. Kennedy
Ranking Minority Member
Committee on Labor and Human Resources
United States Senate

The Honorable William F. Goodling
Chairman
The Honorable William L. Clay
Ranking Minority Member
Committee on Education and the Workforce
House of Representatives

Subject: Department of Labor, Occupational Safety and Health Administration:
Powered Industrial Truck Operator Training

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Labor, Occupational Safety and Health Administration (OSHA), entitled "Powered Industrial Truck Operator Training" (RIN: 1218-AB33). We received the rule on November 30, 1998. It was published in the Federal Register as a final rule on December 1, 1998. 63 Fed. Reg. 66238.

The final rule revises OSHA's existing requirements for powered industrial truck operator training, including new requirements to improve the training of these operators. The requirements apply to all industries in which the trucks are used except agricultural operations.

Enclosed is our assessment of OSHA'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 OSHA complied with the applicable requirements.

If you have any questions about this report, please contact James Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation

work relating to the Department of Labor, Occupational Safety and Health Administration, is Carlotta Joyner, Director, Education and Employment Issues. Ms. Joyner can be reached at (202) 512-7014.

Robert P. Murphy
General Counsel

Enclosure

cc: The Honorable Charles N. Jeffress
Assistant Secretary of Labor
for OSHA
Department of Labor

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY
THE DEPARTMENT OF LABOR,
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
ENTITLED
"POWERED INDUSTRIAL TRUCK OPERATOR TRAINING"
(RIN: 1218-AB33)

(i) Cost-benefit analysis

OSHA conducted a cost-benefit analysis and found that the annualized cost of compliance to be \$16.9 million for all industries. OSHA states that the rule will avert 11 deaths and 9,422 injuries per year which will result in direct cost savings of \$83 million per year. This includes savings in medical costs, value of lost output, and savings in administrative costs of workers' compensation claims.

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

OSHA performed Initial and Final Regulatory Flexibility Analyses and determined that the final rule will not have a significant adverse economic impact on a substantial number of small entities and has so certified. This determination was based on the fact that the largest reduction in profit in any sector was 0.024 percent for small businesses in trucking and warehousing.

(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 does not impose an intergovernmental or private sector mandate, as defined by title II of the Unfunded Mandates Reform Act of 1995, of over \$100 million per year.

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

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

The final rule was issued using the notice and comment procedures contained in 5 U.S.C. 553.

On January 30, 1996, OSHA published a Notice of Proposed Rulemaking (61 Fed. Reg. 3094) and received 109 comments in response. In addition, a public hearing was held from April 30 through May 2, 1996, at which there were 22 participants.

OSHA responds to the comments and issues raised at the hearing in the preamble to the final rule and discusses the changes made, including reducing the frequency of the training to at least once every 3 years.

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

The final rule contains an information collection which is subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Following the consideration of comments received from both OMB and in response to the proposed rule, OSHA has reduced the burden of the information collection. The collection was approved on November 18, 1998, and issued OMB Control No. 1218-0242.

Statutory authorization for the rule

The final rule was issued pursuant to the authority contained in sections 4, 6(b), 8(c), and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); section 107 of the Construction Work Hours and Safety Act (40 U.S.C. 333); section 41 of the Longshore and Harbor Workers Compensation Act (33 U.S.C. 941); and the Secretary of Labor's Order 6-96 (62 Fed. Reg. 111).

Executive Order No. 12866

The final rule was determined to be an "economically significant" regulatory action under Executive Order No. 12866 and was reviewed and approved by the Office of Management and Budget as complying with the requirements of the order.