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March 16, 2010

The Honorable Barbara Boxer
Chairman
The Honorable James M. Inhofe
Ranking Minority Member
Committee on Environment and Public Works
United States Senate

The Honorable Henry A. Waxman
Chairman
The Honorable Joe L. Barton
Ranking Minority Member
Committee on Energy and Commerce
House of Representatives

Subject: *Environmental Protection Agency: National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines*

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 Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines” (RIN: 2060-AP36). We received the rule on February 19, 2010. It was published in the *Federal Register* as a final rule on March 3, 2010. 75 Fed. Reg. 9648. The final rule is effective on May 3, 2010.

The final rule promulgates national emission standards for hazardous air pollutants for existing stationary compression ignition reciprocating internal combustion engines that either are located at area sources of hazardous air pollutant emissions or that have a site rating of less than or equal to 500 brake horsepower and are located at major sources of hazardous air pollutant emissions. The final rule also promulgates national air standards for hazardous air pollutants for existing non-emergency stationary compression ignition engines greater than 500 horsepower that are located at major sources of hazardous air pollutant emissions.

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 of the procedural steps taken 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 Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing 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 EMISSION STANDARDS FOR HAZARDOUS
AIR POLLUTANTS FOR RECIPROCATING
INTERNAL COMBUSTION ENGINES"
(RIN: 2060-AP36)

(i) Cost-benefit analysis

EPA performed a cost-benefit analysis in conjunction with the final rule. EPA determined that the air quality impacts of the final rule would be to reduce total hazardous air pollutant (HAP) emissions from stationary reciprocating internal combustion engines (RICE) by 1,010 tons per year (tpy) beginning in 2013. The final rule is expected to reduce other pollutants, such as carbon monoxide (by 14,000 tpy in 2013), fine particulate matter (PM) (by 2,800 tpy in 2013), and volatile organic compounds (VOC) (by 27,000 in 2013). The final rule will also reduce emissions of sulfur oxide through the use of ultra low sulfur diesel (ULSD) fuel by zero to 31,000 tpy in 2013, depending on the number of engines that used ULSD prior to the enactment of the final rule.

EPA estimated the total national capital cost for the final rule for existing stationary RICE to be \$744 million, with a total national annual cost of \$373 million in 2013. EPA estimated the monetized benefits of the rule, which it calculated in terms of the co-benefits associated with reducing PM, to be between \$940 million and \$2.3 billion (using a 3-percent discount rate) or between \$850 million and \$2.1 billion (using a 7-percent discount rate) in 2013.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 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. EPA estimated that all small entities will have annualized costs of less than 1 percent of their sales in all industries except NAICS 2211 (electrical power generation, transmission, and distribution) and NAICS 111 (Crop and Animal Production). For those two industries, the number of small entities having annualized costs greater than 1 percent of their sales is less than 5 percent.

(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 may result in expenditures of \$100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Therefore, EPA prepared an Unfunded Mandates Reform Act analysis. Based on estimated compliance costs on all sources associated with the final rule and the predicted change in prices and production in the affected industries assuming passthrough of costs to affected consumers, EPA determined that the estimated social costs of the final rule are \$373 million in 2008 dollars. EPA estimated that by 2013, HAP will be reduced by 1,010 tpy due to reductions in formaldehyde, acetaldehyde, acrolein, methanol, and other HAP from existing stationary RICE. Formaldehyde and acetaldehyde have been classified as “probable human carcinogens,” and acrolein and the other HAP, while not carcinogenic, produce several other toxic effects. The final rule is expected to reduce emission of carbon monoxide by more than 14,000 tpy in the year 2013, and exposure to carbon monoxide can affect the cardiovascular system and the central nervous system. EPA also estimates reductions of PM at 2,800 in 2013, and reduction of emissions of VOC by 27,000 tpy in 2013. EPA estimated that the total monetized benefits of the final rule range from \$940 million to \$2.8 billion in 2008 dollars. Finally, EPA determined that the final rule does not contain any regulatory requirements that might significantly or uniquely affect small governments.

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

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

EPA published a notice of proposed rulemaking on March 5, 2009. 74 Fed. Reg. 9698. On April 14, 2009, EPA published a notice extending the comment period to June 3, 2009. 74 Fed. Reg. 17,130. EPA responded to comments in the final rule. 75 Fed. Reg. 9648.

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

The final rule contains information collection requirements under the Paperwork Reduction Act, and those requirements have been submitted to the Office of Management and Budget for approval. The requirements in the final rule include performance testing for non-emergency engines larger than 100 HP, one-time notifications and periodic reports, recording information, monitoring and the maintenance of records. EPA estimates that the requirements will have an annual average reporting burden of 2,232,379 labor hours at a total annual cost of \$4,200,492 when averaged over the first 3 years after sources must comply. EPA estimates that the total capital costs associated with the requirements over the 3-year period is estimated to be \$20,444,316 per year.

Statutory authorization for the rule

The final rule is authorized by section 112 of the Clean Air Act.

Executive Order No. 12,866 (Regulatory Planning and Review)

The final rule was determined to be an “economically significant regulatory action” because it is likely to have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. The final rule was reviewed by the Office of Management and Budget.

Executive Order No. 13,132 (Federalism)

EPA determined that this final rule does not have federalism implications, because it will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. In addition, EPA determined that this final rule does not impose significant costs on state or local governments.