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June 29, 2004

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

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

Subject: *Environmental Protection Agency: National Emission Standards for Hazardous Air Pollutants for Stationary 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 Stationary Reciprocating Internal Combustion Engines" (RIN: 2060-AG63). We received the rule on March 2, 2004. It was published in the Federal Register as a final rule on June 15, 2004. 69 Fed. Reg. 33474

The final rule promulgates national emission standards for hazardous air pollutants for stationary reciprocating internal combustion engines with a site-rating of more than 500 brake horsepower.

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 Robert 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: Stephanie Daigle
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
"NATIONAL EMISSION STANDARDS FOR HAZARDOUS
AIR POLLUTANTS FOR STATIONARY RECIPROCATING
INTERNAL COMBUSTION ENGINES"
(RIN: 2060-AG63)

(i) Cost-benefit analysis

EPA made an assessment of the costs and benefits of the final rule and concluded that the estimated social costs of the final rule are \$248 million. According to EPA estimates, after 5 years hazardous air pollutants will be reduced by 5,600 tons per year. The final rule will also achieve reductions in 234,400 tons of carbon monoxide, approximately 167,900 tons of nitrogen oxides per year, and 3,700 tons of particulate matter per year.

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

The Administrator of EPA has determined that the 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

The final rule will impose an intergovernmental and private sector mandate, as defined in title II, of more than \$100 million in any one year. EPA has prepared the required written statement, which is summarized in the preamble to the final rule.

(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 the 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 section 307(d)(1)(c) of the Act. 42 U.S.C. 7607(d)(1)(c).

On December 19, 2002, EPA published a Notice of Proposed Rulemaking in the Federal Register. 67 Fed. Reg. 77830. A total of 64 comments were received in response and are discussed in the preamble to the final rule.

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

The final rule contains information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. EPA has submitted the required information to OMB for approval and estimates that the annual burden (averaged over the first 3 years) will be 141,984 hours at a cost of \$11,377,592.

Statutory authorization for the rule

The final rule is promulgated under the authority of section 112 of the Clean Air Act (42 U.S.C. 7412).

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

EPA has determined that the final rule does not have federalism implications.