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October 26, 2006

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

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

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 Particulate Matter” (RIN: 2060-AI44). We received the rule on September 26, 2006. It was published in the Federal Register as a final rule on October 17, 2006. 71 Fed. Reg. 61144.

The final rule revises the primary and secondary national ambient air quality standards for particulate matter. With regard to primary standards for final particles (generally referring to particles less than or equal to 2.5 micrometers in diameter), EPA is revising the level of the 24-hour standard to 35 micrograms per cubic meter and retaining the annual standard at 15 micrograms per cubic meter. With regard to primary standards for particles generally less than or equal to 10 micrometers in diameter, EPA is retaining the 24-hour standard and revoking the annual standard. With regard to secondary standards, EPA is making them identical in all respects to the primary particulate matter standards, as revised.

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 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: Louise Wise
Principal 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 AMBIENT AIR QUALITY STANDARDS FOR
PARTICULATE MATTER"
(RIN: 2060-AI44)

(i) Cost-benefit analysis

EPA performed a Regulatory Impact Analysis of the final rule but, in accordance with the provisions of the Clean Air Act and judicial decisions, costs were not considered in setting the standard.

EPA estimates that the revised standards will yield \$9 billion to \$76 billion in health and visibility benefits in 2020. Health benefits included reductions in premature death, diseases, and symptoms associated with fine particle pollution exposure.

EPA estimates the cost of meeting the revised standard at \$5.4 billion in 2020. This estimate includes the costs of purchasing and installing controls for reducing pollution to meet the standard.

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

The Administrator of EPA has certified 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 does not contain either an intergovernmental or private sector mandate, as defined in title II, of more than \$100 million in any one year.

(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 rules using the procedures, with similar notice and comment requirements in section 307(d) of the Clean Air Act, as amended. (42 U.S.C. 7607(d)). The use of these procedures for rules pertaining to the promulgation or

revision of any national ambient air quality standard is mandated by section 307(d)(1)(A) of the Act. (42 U.S.C. 7607(d)(1)(A)).

On January 17, 2006, EPA published a Notice of Proposed Rulemaking in the Federal Register. 71 Fed. Reg. 2620. In addition to holding three public hearings, EPA received more than 120,000 comments in response to the proposed rule.

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

The final rule does not contain any information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule is promulgated under the authority found in the Clean Air Act, as amended. 42 U.S.C. 7401 et seq.

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 states that the final rule does not have federalism implications under the order.