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United States Government Accountability Office  
Washington, DC 20548

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B-309057

March 9, 2007

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: Control of Hazardous Air Pollutants  
From Mobile Sources*

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 "Control of Hazardous Air Pollutants From Mobile Sources" (RIN: 2060-AK70). We received the rule on February 15, 2007. It was published in the *Federal Register* as a final rule on February 26, 2007. 72 Fed. Reg. 8428.

The final rule adopts controls on gasoline, passenger vehicles, and portable fuel containers intended to reduce emissions of the carcinogen benzene. EPA is limiting the benzene content of gasoline to an annual refinery average of 0.62 percent, by volume, beginning in 2011; limiting exhaust emissions from passenger vehicles operated at cold temperatures, which will be phased in between 2010 and 2015; adopting evaporative emissions standards for passenger vehicles; and adopting a hydrocarbon emissions standard for portable fuel containers that will be instituted in 2009 in order to reduce evaporation and spillage.

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

Robert J. Cramer  
Associate General Counsel

Enclosure

cc: Louise Wise  
Principal Deputy Associate Administrator  
Environmental Protection Agency

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
ENVIRONMENTAL PROTECTION AGENCY  
ENTITLED  
"CONTROL OF HAZARDOUS AIR POLLUTANTS  
FROM MOBILE SOURCES"  
(RIN: 2060-AK70)

(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 final rule will yield significant benefits, such as reductions in premature deaths and other serious human health effects, as well as other important public health and welfare effects. However, EPA monetized only the portions of the rule dealing with cold weather temperature vehicle standards. EPA estimates that these portions will produce benefits between \$5.7 billion and \$6.3 billion in 2030.

EPA estimates that the portions of the final rule dealing with benzene content will produce annual costs to the refinery industry in capital equipment investment of \$398 million in 2020, and \$441 million in 2030. In addition, EPA estimates that the annual costs to the automotive industry associated with the cold weather temperature vehicle standards will peak in 2014 at approximately \$13.4 million per year. However, these costs will be fully amortized by 2020. EPA estimates no additional costs for the evaporative emissions standards. Finally, EPA estimates that the portable fuel container standards will produce annual costs to manufacturers of approximately \$37.5 million in 2020, and approximately \$45.7 million in 2030. However, these standards will produce savings in gasoline of approximately \$109.5 million in 2020, and approximately \$124.2 million in 2030.

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

EPA prepared a Regulatory Flexibility Analysis to evaluate the impact of the final rule on small entities. As part of this analysis, EPA convened a Small Business Advocacy Review Panel to gain feedback on the rule and develop regulatory alternatives for small businesses. EPA adopted many of the Panel's recommendations, including the inclusion of provisions that give small light-duty vehicle manufacturers, small gasoline refiners, and small portable fuel container manufacturers several compliance options aimed at reducing the burden on these 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 states that the final rule contains federal mandates that may result in expenditures of more than \$100 million to the private sector in any single year. EPA believes that the final rule represents the least costly, most cost-effective approach to reach the air-quality goals of the rule. The final rule does not impose any intergovernmental mandates.

(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 found at 5 U.S.C. § 553. On March 29, 2006, EPA published a Notice of Proposed Rulemaking in the *Federal Register*. 71 Fed. Reg. 15804. EPA prepared a Summary and Analysis of Comments document, which is part of the rulemaking docket and is available on the internet.

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

EPA states that the information collection requirements contained in the final rule have been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act. These include a variety of requirements for vehicle manufacturers, fuel producers, and portable fuel container manufacturers to ensure compliance with the rule. When the collections are approved, a separate notice will be published in the *Federal Register*.

Statutory authorization for the rule

The final rule was promulgated under the authority contained sections 202 and 211(c) of the Clean Air Act, 42 U.S.C. §§ 7521, 7545(c).

Executive Order No. 12866

The final rule was reviewed by the Office of Management and Budget and found to be an economically significant action under the order.

Executive Order No. 13132 (Federalism)

EPA found that the final rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order No. 13175 (Consultation & Coordination with Indian Tribal Governments)

EPA found that the final rule does not have tribal implications, and thus the executive order is not applicable.

Executive Order No. 13045 (Protection of Children from Environmental Health & Safety Risks)

EPA prepared an analysis of the effect of the rule on children and concluded that exposure to carcinogens, such as benzene, presents a disproportionate health risk for children.

Executive Order No. 13211 (Actions that Significantly Affect Energy Supply, Distribution, or Use)

EPA states that the executive order is not applicable to this rule, because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

National Technology Transfer Act, 15 U.S.C. § 272 note

EPA states that it could not identify any voluntary consensus standards in the industry that relate to this subject, so it will use standards developed in prior EPA rulemakings.

Executive Order No. 12898 (Federal Actions to Address Environmental Justice in Minority Populations & Low-Income Populations)

EPA states that the final rule will not have disproportionate adverse health or environmental effects on minority or low-income populations because it will decrease the amount of air pollution to which the entire population is exposed.