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United States Government Accountability Office
Washington, DC 20548

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October 21, 2008

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 Emissions From Nonroad Spark-Ignition Engines and Equipment*

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 Emissions From Nonroad Spark-Ignition Engines and Equipment" (RIN: 2060-AM34). We received the rule on September 9, 2008. It was published in the *Federal Register* as a final rule on October 8, 2008. 73 Fed. Reg. 59,034.

The final rule sets emission standards for new nonroad spark-ignition engines that will substantially reduce emissions from these engines. These standards will apply for new marine spark-ignition engines, including sterndrive and inboard engines, starting in 2010. The exhaust emission standards start applying in 2011 and 2012 for different sizes of new land-based, spark-ignition engines at or below 19 kilowatts, which are primarily used in lawn and garden applications. Finally, the rule adopts evaporative emission standards for vessels and equipment using any of these engines.

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 or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Michael R. Volpe, Assistant General Counsel, at (202) 512-8236.

signed

Robert J. Cramer
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
"CONTROL OF EMISSIONS FROM
NONROAD SPARK-IGNITION ENGINES AND EQUIPMENT"
(RIN: 2060-AM34)

(i) Cost-benefit analysis

EPA estimates that by 2030 the final rule will result in significantly reduced pollutant emissions from regulated engine and equipment sources, which will substantially benefit public health and welfare and the environment. EPA estimates that by 2030, on an annual basis, these emission reductions will prevent 230 particulate matter-related premature deaths, between 77 and 350 ozone-related deaths, approximately 1,700 hospitalizations and emergency room visits, 23,000 work days lost, 180,000 school days lost, and 590,000 acute respiratory symptoms. The total annual benefits of this rule in 2030 are estimated to be between \$1.8 billion and \$4.4 billion assuming a 3-percent discount rate, or between \$1.6 billion and \$4.3 billion assuming a 7-percent discount rate. EPA estimates the costs in 2030 at approximately \$190 million.

(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 estimates that 43 companies will have costs between 1 and 3 percent of revenues due to this final rule, and an additional 18 companies will have costs over 3 percent of revenues. These 61 companies represent less than 5 percent of the small businesses impacted by the final rule.

(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 this final rule contains no federal mandates for state, local, or tribal governments. The final rule does contain federal mandates that may result in expenditures of more than \$100 million to the private sector in a single year. EPA believes that the final rule represents the least costly, most cost-effective approach to achieve the air quality goals of this rule.

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

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

EPA published a proposed rule on May 18, 2007 (72 Fed. Reg. 28098) and held a public hearing on June 5, 2007, in Reston, Virginia. EPA received written comments from over 100 entities during the comment period. EPA responded to those comments in a Summary and Analysis of Comments document that was placed in the docket for this final rule, and summarized those comments and its response in the final rule.

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

The final rule contains information collection requirements under the Act. EPA has submitted the information collection request documents to the Office of Management and Budget (OMB). EPA estimates this final rule will have a total annual burden of approximately 131,000 hours and cost approximately \$17 million annually, based on a projection of 1,031 respondents, which will include engine manufacturers, equipment manufacturers, and manufacturers of fuel system components.

Statutory authorization for the rule

The final rule is authorized by section 213 of the Clean Air Act (42 U.S.C. § 7547) and section 428(b) of the 2004 Consolidated Appropriations Act (Pub. L. No. 108-199).

Executive Order No. 12,866

The final rule is an economically significant regulatory action under the Order, and EPA submitted the rule to OMB for review under the Order.

Executive Order No. 13,132 (Federalism)

The final rule has federalism implications because it preempts state law, by codifying the existing statutory requirement that prohibits other states from adopting California standards for nonroad spark-ignition engines less than 50 horsepower. The final rule does not affect the independent authority of California. In developing the final rule, EPA consulted with representatives of various state and local governments as well as representatives from the National Association of Clean Air Agencies, which represents state and local air pollution officials. In accordance with Executive Order No. 13,132, EPA included a certification from its federalism official stating that EPA had met the Executive Order's requirements in a meaningful and timely manner, when it sent the draft of the final rule to OMB for review under Executive Order 12,866 (see above).