



Office of the General Counsel

B-280474

July 13, 1998

The Honorable John H. Chafee
Chairman
The Honorable Max Baucus
Ranking Minority Member
Committee on Environment and Public Works
United States Senate

The Honorable Thomas J. Bliley, Jr.
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Commerce
House of Representatives

Subject: Environmental Protection Agency: Disposal of Polychlorinated Biphenyls (PCBs)

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 "Disposal of Polychlorinated Biphenyls (PCBs)" (RIN: 2070-AC01). We received the rule on June 24, 1998. It was published in the Federal Register as a final rule on June 29, 1998. 63 Fed. Reg. 35384.

The final rule amends EPA's regulations under the Toxic Substances Control Act which address the manufacture, processing, distribution in commerce, use, cleanup, storage, and disposal of polychlorinated biphenyls. The rule, among other changes, provides flexibility in selecting disposal technologies for PCB wastes and expands the list of available decontamination procedures. It also provides a less burdensome mechanism for obtaining EPA approval for a variety of activities. The rule codifies policies that EPA has developed over the past 19 years.

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 Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the Environmental Protection Agency is Peter Guerrero, Director, Environmental Protection Issues. Mr. Guerrero can be reached at (202) 512-6111.

Robert P. Murphy
General Counsel

Enclosure

cc: Mr. Thomas E. Kelly
Director, Office of Regulatory
Management and Information
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
"DISPOSAL OF POLYCHLORINATED BIPHENYLS (PCBs)"
(RIN: 2070-AC01)

(i) Cost-benefit analysis

EPA performed a cost-benefit analysis in connection with the final rule which is summarized in the preamble and which was submitted in its entirety to our Office. EPA estimates the final rule will result in potential total annual savings between \$178.1 million and \$736.1 million. This range of possible costs savings depends upon which of the baselines considered in the cost analysis was used. Two of these baselines were:

- costs derived from EPA policy as it has evolved in response to PCB waste handling issues and
- costs reflecting a literal interpretation of the existing regulation.

EPA did not perform a totally new benefit analysis because it found that the amended rule will not reduce the benefits associated with the protection of human health and the environment afforded through the current regulation.

Finally, EPA prepared a risk assessment upon which it based its finding of no unreasonable risks associated with the implementation of the final rule.

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

The Administrator of EPA has certified to the Chief Counsel for Advocacy of the Small Business Administration 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 impose a federal intergovernmental or private sector mandate of \$100 million or more, as defined in the Unfunded Mandates Act of 1995.

(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 contained in 5 U.S.C. § 553. On June 10, 1991, EPA issued an Advance Notice of Proposed Rulemaking to solicit comments on possible changes to the PCB disposal regulations. 56 Fed. Reg. 26738. On December 6, 1994, a Notice of Proposed Rulemaking was issued. 59 Fed. Reg. 62788. On June 6 and 7, 1995, EPA held public hearings on the proposed rule. EPA responds to the comments received in the preamble to the final rule. For those comments not addressed in the preamble, EPA has prepared a Response to Comments document dealing with them, and it is part of the rulemaking docket.

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

The final rule contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The requirements have been submitted to OMB and will not be effective and need not be complied with until OMB approval is obtained.

The preamble to the final rule lists the information required by the Paperwork Reduction Act, including the type of information requested, the parties subject to the requirement, the need for and the use to be made of the information, and the estimated annual burden hours imposed.

The collections contain reporting and recordkeeping requirements associated with the management of PCBs, PCB Items, and PCB waste. This is to ensure that EPA is knowledgeable of ongoing PCB activities and that individuals using or disposing of PCBs are held accountable for their activities.

EPA estimates that no one individual will be subject to all the requirements of the information collections. The burden to respondents is estimated to total 1,786,153 hours per year, with an annual cost of \$78,422,831, which includes \$20,819,000 for the acquisition of training services unaffiliated with specific respondent hours. These totals are based on an average burden range of 15 minutes to 550 hours per response for an estimated 68,079 respondents submitting 24 reports, and an average burden range of 50 minutes to 60 hours for an estimated 395,409 respondents maintaining required records.

Statutory authorization for the rule

The final rule was promulgated pursuant to the authority of 15 U.S.C. §§ 2605, 2607, 2611, 2614, and 2616.

Executive Order No. 12866

The final rule was determined to be an "economically significant" regulatory action and was reviewed and approved by the Office of Management and Budget.