



**United States  
General Accounting Office  
Washington, D.C. 20548**

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**Office of the General Counsel**

B-282393

April 7, 1999

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

The Honorable Larry Combest  
Chairman  
The Honorable Charles W. Stenholm  
Ranking Minority Member  
Committee on Agriculture  
House of Representatives

**Subject: Environmental Protection Agency: Phase 2 Emission Standards for New  
Nonroad Spark-Ignition Nonhandheld Engines At or Below 19 Kilowatts**

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 "Phase 2 Emission Standards for New Nonroad Spark-Ignition Nonhandheld Engines At or Below 19 Kilowatts" (RIN: 2060-AE29). We received the rule on March 11, 1999. It was published in the Federal Register as a final rule on March 30, 1999. 64 Fed. Reg. 15208.

The final rule is the second phase of emission regulations to control emissions from new nonroad spark-ignition nonhandheld engines at or below 19 kilowatts (25 horsepower), which are principally used in lawn and garden equipment.

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 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  
"PHASE 2 EMISSION STANDARDS FOR NEW NONROAD SPARK-IGNITION  
NONHANDHELD ENGINES AT OR BELOW 19 KILOWATTS"  
(RIN: 2060-AE29)

(i) Cost-benefit analysis

EPA performed a Regulatory Impact Analysis (RIA), which includes a cost-benefit analysis, and the RIA is summarized in the preamble to the final rule. A complete copy was furnished to our Office.

EPA has estimated the annual cost of the final rule to be \$230 million.

The benefits to be derived from the rule should be a 59-percent reduction in hydrocarbons plus oxides of nitrogen (HC+NO<sub>x</sub>) beyond Phase I standards for the engines by the year 2027. This translates to a cost effectiveness of \$852 per ton of HC+NO<sub>x</sub> when fuel savings are not taken into account and -\$507 per ton when fuel savings are considered.

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

EPA has certified that the final rule will not have a significant 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

While the final rule will not impose an intergovernmental mandate because there are no enforceable duties on state, local, or tribal governments, the rule will impose a mandate on the private sector in excess of \$100 million in any one year. Therefore, EPA has prepared the written statement required by the Act.

The statement contains both qualitative and quantitative assessments of the benefits and cost of the rule. In the final rule, the regulatory alternatives which were considered are discussed. Also, EPA explains the reasons for selecting the alternative it did. EPA considers it to be the most cost-effective and least burdensome alternative that would meet the mandate of section 213(a)(3) of the Clean Air Act.

(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, the EPA promulgated this 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 rules pertaining to nonroad engines or vehicles is mandated by section 307(d)(1)(R) of the Clean Air Act.

On January 27, 1998, EPA issued a Notice of Proposed Rulemaking in the Federal Register, 63 Fed. Reg. 3950, which was preceded by an Advanced Notice of Proposed Rulemaking dated March 27, 1997, 62 Fed. Reg. 14740. These actions were followed by public meetings and the release of additional information regarding technology improvements which generated more timely and relevant comments.

In the preamble to the final rule, EPA discusses the comments it received and the action it has taken in response to them in finalizing the rule.

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

The final rule contains information collections which are subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act.

The preamble to the final rule contains the information required by the Act, including the reason for the collections and the estimated annual burden imposed. EPA estimates the annual burden to be 156,816 hours at an estimated annual cost of \$9,489,386.

Statutory authorization for the rule

The final rule was issued pursuant to the authority contained in sections 202, 203, 204, 205, 206, 207, 208, 209, 213, 215, 216, and 301(a) of the Clean Air Act as amended, 42 U.S.C. §§ 7521, 7522, 7523, 7524, 7525, 7541, 7542, 7543, 7547, 7549, 7550, and 7601(a).

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 as complying with the requirements of the Order.