



United States General Accounting Office  
Washington, DC 20548

Office of the General Counsel

B-282898

July 8, 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 Thomas J. Bliley, Jr.  
Chairman  
The Honorable John D. Dingell  
Ranking Minority Member  
Committee on Commerce  
House of Representatives

Subject: Environmental Protection Agency: Regional Haze Regulations

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by Environmental Protection Agency, entitled "Regional Haze Regulations" (RIN: 2060-AF32). We received the rule on June 1, 1999. It was published in the Federal Register as a final rule on July 1, 1999. 64 Fed. Reg. 35714.

The final rule calls for states to establish goals and emission reduction strategies for improving visibility in all 156 mandatory Class I national parks and wilderness areas. Specific provisions are included in the rule allowing nine western states to implement the recommendations of the Grand Canyon Visibility Transport Commission within the framework of the national regional haze program.

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 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 Peter Guerrero, Director, Environmental Protection Issues. Mr. Guerrero can be reached at (202) 512-6111.

Sincerely yours,

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  
"REGIONAL HAZE REGULATIONS"  
(RIN: 2060-AF32)

(i) Cost-benefit analysis

EPA has prepared a Regulatory Impact Analysis (RIA) which contains a cost-benefit analysis of the final rule. EPA notes that the RIA is not a precise reflection of the actual costs, economic impacts, and benefits associated with the final rule because the states bear the primary responsibility for establishing reasonable progress goals and emission management strategies. Until these decisions are made, EPA can only speculate as to the final costs and benefits.

The RIA estimates that the planning, analysis, and Best Available Retrofit Technology (BART) control elements will result in \$72 million in incremental annualized costs. If states all choose to establish the same illustrative progress goal, the incremental costs range from \$1 billion to \$4 billion with associated benefits of \$1 billion to \$19 billion.

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

Because the rule does not establish requirements applicable to small entities, 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

EPA does not reach a final conclusion as to the applicability of the Unfunded Mandates Reform Act of 1995 to the final rule. EPA contends that it is unclear whether a requirement for a state to revise its State Implementation Plan constitutes a federal mandate.

EPA notes that such a decision is unnecessary in view of the actions it took which are in compliance with sections 202, 204, and 205. The actions and discussions are documented in the Regulatory Impact Analysis.

(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 haze and visibility is mandated by section 307(d)(1)(J) of the Clean Air Act.

EPA published a Notice of Proposed Rulemaking on July 31, 1997. 62 Fed. Reg. 41138. Over 1,300 comments were received in response to the notice and are discussed in the final rule's preamble.

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

The final rule contains information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. EPA has submitted the matter to OMB for approval and the collections need not be complied with until approved by OMB and a control number issued.

The preamble to the final rule summarizes the information required to be submitted to OMB including the annual burden imposed. EPA estimates that reporting burden for the 50 states and the District of Columbia to be approximately 22,000 to 47,000 hours for a 3-year period between mid-1999 and mid-2002. The federal burden will be approximately 1,900 to 4,000 hours for the same 3-year period. The costs are estimated to be \$980,000 to \$2,064,000 for the states and \$83,000 to \$175,000 for the federal government.

Statutory authorization for the rule

The final rule is issued pursuant to the authority contained in 42 U.S.C. §§ 7410, 7414, 7421, 7470-7479, 7491, 7492, 7601, and 7602.

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.