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May 7, 2024

The Honorable Thomas R. Carper
Chairman
The Honorable Shelley Moore Capito
Ranking Member
Committee on Environment and Public Works
United States Senate

The Honorable Cathy McMorris Rodgers
Chair
The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Environmental Protection Agency: Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles—Phase 3*

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 “Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles—Phase 3” (RIN: 2060-AV50). We received the rule on March 28, 2024. It was published in the *Federal Register* as a final rule on April 22, 2024. 89 Fed. Reg. 29440. The effective date is June 21, 2024.

With this final rule, EPA stated that it is promulgating new greenhouse gas (GHG) emissions standards for Model Year 2032 and later heavy-duty highway vehicles that phase in starting as early Model Year 2027 for certain vehicle categories. According to EPA, the phase-in revises certain Model Year 2027 GHG standards that were established previously under EPA’s “Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium and Heavy-Duty Engines and Vehicles—Phase 2” rule. 81 Fed. Reg. 73478 (Oct. 25, 2016). EPA also stated that this rule updates discrete elements of the Averaging Banking and Trading program, including providing additional flexibilities for manufacturers to support the implementation of the Phase 3 program balanced by limiting the availability of certain advanced technology credits initially established under the Phase 2 program. Additionally, EPA stated it is adding warranty requirements for batteries and other components of zero-emission vehicles and requiring customer-facing battery state-of-health monitors for plug-in hybrid and battery electric vehicles. Lastly, EPA stated it is finalizing additional revisions, including clarifying and editorial amendments to certain highway heavy-duty vehicle provisions and certain test procedures for heavy-duty engines.

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. 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 Charlie McKiver, Assistant General Counsel, at (202) 512-5992.

A handwritten signature in cursive script that reads "Shirley A. Jones". The signature is written in black ink and is positioned above the typed name and title.

Shirley A. Jones
Managing Associate General Counsel

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
ENVIRONMENTAL PROTECTION AGENCY
ENTITLED
“GREENHOUSE GAS EMISSIONS STANDARDS FOR HEAVY-DUTY VEHICLES —PHASE 3”
(RIN: 2060-AV50)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) prepared a comparison of the estimated range of benefits associated with reductions of greenhouse gases, monetized health benefits from reductions in particulate matter, energy security benefits, fuel savings, and vehicle-related operating savings to total costs associated with the modeled compliance pathway for this final rule and for a regulatory alternative that would establish less-stringent emission standards.

EPA stated that the significantly greater benefits for the final standards relative to the alternative provide reinforcing support for EPA’s decision to adopt the final standards in lieu of the alternative. According to EPA, in 2055, the rule would result in net benefits of \$32 billion, which is significantly greater than the alternative’s net benefits of \$8.3 billion.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 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.

(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 unfunded mandate for state, local, or tribal governments of \$100 million in 1995 dollars, updated annually for inflation, and does not significantly or uniquely affect small governments. EPA stated that the rule imposes no enforceable duty on any state, local, or tribal government. Additionally, EPA determined that the rule contains a federal mandate under the Act that may result in expenditures of \$100 million in 1995 dollars, updated annually for inflation, or more for the private sector in any one year. EPA stated it prepared a written statement of the costs and benefits associated with this action as required under the Act, which is discussed in the preamble of the rule and in the Regulatory Impact Analysis.

(iv) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 amended 5 U.S.C. § 801(a)(2)(A) to require GAO to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO’s major rule reports. In guidance to Executive Branch agencies, issued on September 1, 2023, the Office of Management and Budget (OMB) instructed that agencies should include a statement explaining that either: “the Act does not apply to this rule because it does not increase direct spending; the Act does not

apply to this rule because it meets one of the Act's exemptions (and specifying the relevant exemption); the OMB Director granted a waiver of the Act's requirements pursuant to section 265(a)(1) or (2) of the Act; or the agency has submitted a notice or written opinion to the OMB Director as required by section 263(a) or (b) of the Act" in their submissions of rules to GAO under the Congressional Review Act. OMB, *Memorandum for the Heads of Executive Departments and Agencies*, Subject: Guidance for Implementation of the Administrative Pay-As-You-Go Act of 2023, M-23-21 (Sept. 1, 2023), at 11–12. OMB also states that directives in the memorandum that supplement the requirements in the Act do not apply to proposed rules that have already been submitted to the Office of Information and Regulatory Affairs, however agencies must comply with any applicable requirements of the Act before finalizing such rules.

EPA did not address the Act in this final rule or in its submission to us.

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

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

On April 27, 2023, EPA published a proposed rule. 88 Fed. Reg. 25926. EPA stated that the final standards and requirements it is promulgating with this final rule are based on consideration of the data and analyses included in the proposed rule, additional supporting data and analyses EPA conducted in support of the final rule, and consideration of the extensive public input EPA received in response to the proposed rule. EPA stated that these considerations and analyses are described in detail in the preamble of the rule, the Regulatory Impact Analysis, and the Response to Comments document accompanying the preamble of the rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

EPA determined that this final rule contains information collection requirements (ICRs) subject to PRA and stated that the ICRs have been submitted to OMB for approval. EPA stated that the ICR documents have been assigned EPA ICR Number 2734.02. EPA estimated a total annual burden of 7,411 hours associated with the ICR, and a total estimated cost of \$1.622 million, which includes an estimated \$936,500 in maintenance and operational costs.

Statutory authorization for the rule

EPA promulgated this final rule pursuant to sections 7401–7675 of title 42, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

EPA stated that this final rule is a significant regulatory action as defined under the Order and submitted it to OMB for review.

Executive Order No. 13132 (Federalism)

EPA determined that this final rule does not have federalism implications and will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.