



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 18, 2022

OFFICE OF
AIR AND RADIATION

MEMORANDUM

SUBJECT: EPA Response to OIG Report titled: “*EPA Failed to Develop Required Cost and Benefit Analyses and to Assess Air Quality Impacts on Children’s Health for Proposed Glider Repeal Rule Allowing Used Engines in Heavy-Duty Trucks*” - Report No. 20-P-0047, December 5, 2019

FROM: Joseph Goffman
Principal Deputy Assistant Administrator

TO: Patrick Gilbride
Director, Implementation, Execution, and Enforcement
Office of Special Review and Evaluation
Office of the Inspector General

EPA is committed to maintaining a transparent rulemaking process and believes that public input is critical to improving regulations. The Office of Air and Radiation (OAR) welcomes the opportunity to provide updated corrective actions for the Office of the Inspector General’s (OIG) report titled *EPA Failed to Develop Required Cost and Benefit Analyses and to Assess Air Quality Impacts on Children’s Health for Proposed Glider Repeal Rule Allowing Used Engines in Heavy-Duty Trucks* (Report No. 20-P-0047), dated December 5, 2019. Our response to the three OIG recommendations for OAR are as follows:

OIG Recommendation 1: For the proposed Glider Repeal Rule, per Executive Order 12866, [the AA for OAR should] identify for the public (e.g., via the public docket) any substantive changes between the draft submitted to the Office of Information and Regulatory Affairs [OIRA] for review and the action subsequently announced, and any changes made at the suggestion or recommendation of the Office of Information and Regulatory Affairs.

Response 1: To address the OIG’s concerns in this audit and to provide further context for the draft submitted to OIRA and the redline drafts reflecting subsequent substantive changes to the proposed Glider Repeal Rule that are already in the public docket, EPA will docket a memorandum explaining more clearly whether the change to the proposed Glider Repeal Rule’s designation from “economically significant” to “significant” was made at the suggestion or recommendation of OIRA.

Planned completion date: Q3, FY 2022.

Recommendation 2: Should EPA finalize the glider repeal rulemaking, prior to issuance of the final rule, [the AA for Air OAR should] conduct the required analyses to comply with Executive Orders 12866 and 13045; include all analyses in the public docket; identify for the public any substantive changes between the draft submitted to the Office of Information and Regulatory Affairs for review and the action subsequently announced, and any changes made at the suggestion or recommendation of the Office of Information and Regulatory Affairs; and provide the public a means to comment on the analyses supporting the rulemaking.

Response 2: In EPA’s Spring 2020 Regulatory Agenda, the Glider Repeal Notice of Proposed Rulemaking (NPRM) is listed under completed actions as “withdrawn,” which clarifies for the public that the agency intends to take no further action.

Planned Completion Date: Complete.

OIG Recommendation 3: Document the decisions made during the glider repeal rulemaking process, including substantive decisions reached orally, to comply with applicable record-keeping and docketing requirements, including those found in the Federal Records Act, the EPA’s Interim Records Management Policy, and the EPA’s Action Development Process guidance.

Response 3: To document the decisions made during the Glider Repeal rulemaking process, OAR will include a memorandum to the agency’s rule file documenting EPA’s Action Development Process (ADP) for the Glider Repeal Proposed Rule. This memorandum will be based on the guidance, assistance and advice OAR’s Office of Transportation and Air Quality received from EPA’s Office of Policy and EPA’s Office of General Counsel with respect to the EPA’s ADP, the Federal Records Act, and the EPA’s Interim Records Management Policy. As part of the agency’s records for this action, this memorandum will be available to the public through Freedom of Information Act requests.

Planned completion date: Q3, FY 2022

cc: Betsy Shaw
Sarah Dunham
Julia Burch
Grant Peacock
Marc Vincent
Bill Charmley
Julie Narimatsu
Bill Nickerson