



441 G St. N.W.
Washington, DC 20548

B-334676

October 17, 2022

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

The Honorable Frank Pallone, Jr.
Chairman
The Honorable Cathy McMorris Rodgers
Republican Leader
Committee on Energy and Commerce
House of Representatives

Subject: *Environmental Protection Agency: National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters*

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 “National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters” (RIN: 2060-AU20). We received the rule on September 9, 2022. It was published in the *Federal Register* as a final rule on October 6, 2022. 87 Fed. Reg. 60816. The effective date is December 5, 2022.

EPA states that the final rule finalizes amendments to the national emission standards for hazardous air pollutants (NESHAP) at major sources from new and existing industrial, commercial, and institutional (ICI) boilers and process heaters. EPA further states that the rule finalizes amendments to several numeric emission limits for new and existing boilers and process heaters, consistent with recent federal court rulings, and sets compliance dates for these new emission limits. Finally, EPA states that the rule provides further explanation of one aspect of EPA’s use of carbon monoxide (CO) as a surrogate for organic hazardous air pollutants (HAP) and its use of a CO threshold to represent the application of the maximum achievable control technology (MACT) for organic HAP, as well as finalizes several technical clarifications and corrections.

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 Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive style with a large initial 'S' and a distinct 'A'.

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
“NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS
FOR MAJOR SOURCES: INDUSTRIAL, COMMERCIAL,
AND INSTITUTIONAL BOILERS AND PROCESS HEATERS”
(RIN: 2060-AU20)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) estimated costs and benefits of the final rule. Specifically, EPA estimated that the present value (PV) of the health benefits of the final rule, discounted at a 3 percent discount rate, is about \$500 million and \$505 million, with an equivalent annualized value (EAV) of about \$71 million and \$72 million. At a 7 percent discount rate, EPA estimated that the PV of the health benefits of the final rule is about \$350 million and \$353 million, with an EAV of about \$58 million and \$59 million. EPA states that these health benefit estimates reflect alternative fine particulate matter (PM_{2.5}) mortality risk estimates. With respect to climate disbenefits, EPA estimated that the PV of the climate disbenefits of the final rule, discounted at both a 3 and 7 percent rate, is about \$7 million, with an EAV of about \$1 million. Additionally, EPA estimated that the PV of compliance costs at a 3 percent discount rate is about \$315 million, with an EAV of about \$45 million, and that the PV of compliance costs at a 7 percent discount rate is about \$265 million, with an EAV of about \$44 million.

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

EPA certified that the final rule will not have a significant economic impact on a substantial number of small entities under the Act.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

EPA stated that the final rule contains a federal mandate that may result in expenditures of \$100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year. Accordingly, EPA states that it has prepared a written statement as required by section 202 of the Act, and has included such statement in a regulatory impact analysis on the docket for this rule. EPA further states that the final rule is not subject to the requirements of section 203 of the Act because it contains no regulatory requirements that might significantly or uniquely affect small governments.

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

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

On August 24, 2020, EPA published a proposed rule. 85 Fed. Reg. 52198. EPA responded to comments in the final rule.

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

EPA determined that the rule contains information collection requirements under the Act. Accordingly, EPA states that it submitted these requirements to the Office of Management and Budget (OMB) for approval and that OMB assigned the EPA Information Collection Request (ICR) Number 2028.12 (OMB Control Number 2060-0551). EPA stated that the total estimated burden of this ICR is 1,553 hours per year and the total estimated cost is \$1,130,000 per year, including \$949,000 annualized capital or operation and maintenance costs.

Statutory authorization for the rule

EPA promulgated this rule pursuant to section 7401 *et seq.* of title 42, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

EPA states that the rule is an economically significant regulatory action that was submitted to OMB for review. EPA further states that changes made in response to OMB recommendations have been documented in the docket for this rule.

Executive Order No. 13132 (Federalism)

EPA states that the 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.