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June 14, 2023

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: Federal “Good Neighbor Plan” for the 2015 Ozone National Ambient Air Quality Standards*

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 “Federal “Good Neighbor Plan” for the 2015 Ozone National Ambient Air Quality Standards” (RIN: 2060-AV51). We received the rule on March 17, 2023. It was published in the *Federal Register* as a final rule on June 5, 2023. 88 Fed. Reg. 36654. The effective date is August 4, 2023.

EPA stated that the final rule finalizes Federal Implementation Plan (FIP) requirements to address 23 states’ obligations to eliminate significant contribution to nonattainment, or interference with maintenance, of the 2015 ozone National Ambient Air Quality Standards (NAAQS) in other states. EPA further stated that it promulgated this rule under the “good neighbor” or “interstate transport” provision of the Clean Air Act (CAA), 42 U.S.C. § 7401 *et seq.* According to EPA, the rule defines the amount of ozone-precursor emissions (specifically, nitrogen oxides) that constitute significant contribution to nonattainment and interference with maintenance from 23 states. With respect to fossil fuel-fired power plants in 22 states, EPA stated that this rule will prohibit those emissions by implementing an allowance-based trading program beginning in the 2023 ozone season. With respect to certain other industrial stationary sources in 20 states, which EPA has identified in the rule, EPA states that the rule will prohibit those emissions through emissions limitations and associated requirements beginning in the 2026 ozone season.

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, flowing style.

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
“FEDERAL “GOOD NEIGHBOR PLAN” FOR THE
2015 OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS”
(RIN: 2060-AV51)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) conducted a cost-benefit analysis of this final rule. In terms of benefits, at a 3-percent discount rate, EPA stated that the present value of the monetized health benefits associated with the final rule is estimated to be about \$200 billion, with an equivalent annualized value of about \$13 billion. At a 7-percent discount rate, according to EPA, the present value of monetized health benefits is estimated to be \$130 billion, with an equivalent annualized value of about \$12 billion. EPA further stated that the present value of monetized climate benefits associated with the final rule, discounted at a 3-percent rate, is estimated to be about \$15 billion, with an equivalent annualized value of about \$970 million.

In terms of costs, EPA stated that the present value of the monetized compliance costs associated with the final rule, discounted at a 3-percent rate, is estimated to be about \$14 billion, with an equivalent annualized value of about \$910 million. At a 7-percent discount rate, EPA stated that the present value of the compliance costs is estimated to be about \$9.4 billion, with an equivalent annualized value of about \$770 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 no unfunded federal mandate for state, local, or tribal governments as described in the Act, does not significantly or uniquely affect small governments, and does not impose any enforceable duty on any state, local, or tribal government. EPA further stated that the final rule contains a federal mandate under sections 1531–1538 of the Act that may result in expenditures of \$100 million or more in any one year for the private sector.

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

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

On April 6, 2022, EPA published a proposed rule. 87 Fed. Reg. 20036. EPA responded to comments in this final rule.

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

EPA determined that the final rule contains information collection requirements under the PRA, and it stated that it has submitted these requirements to the Office of Management and Budget (OMB) for review. EPA further stated that the titles of the affected collections of information, along with the associated paperwork burden effects of the final rule on the affected forms and schedules, are as follows:

- EPA ICR Number 2705.02: 11,481 hours per year; \$3,823,000 per year; and
- EPA ICR Number 2709.01: 2,289 hours per year; \$356,623 per year.

Statutory authorization for the rule

EPA promulgated this final rule pursuant to sections 7401–7671q and 7651k note of title 42, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

EPA determined that the rule is economically significant under the Order and stated that it has submitted the rule to OMB for review.

Executive Order No. 13132 (Federalism)

EPA stated that the final rule does not have federalism implications. Specifically, EPA stated that the rule 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.