



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

B-335463

August 2, 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: Phasedown of Hydrofluorocarbons: Allowance Allocation Methodology for 2024 and Later Years*

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 "Phasedown of Hydrofluorocarbons: Allowance Allocation Methodology for 2024 and Later Years" (RIN: 2060-AV45). We received the rule on July 10, 2023. It was published in the *Federal Register* as a final rule on July 20, 2023. 88 Fed. Reg. 46836. The effective date is September 18, 2023, except for amendatory instructions 3 and 13, which are effective October 1, 2024.

The final rule, according to EPA, implements certain provisions of the American Innovation and Manufacturing Act of 2020. Pub. L. No. 116-260, div. S, § 103, 134 Stat. 1182, 2255 (Dec. 27, 2020). EPA stated the rule establishes the methodology for allocating hydrofluorocarbon production and consumption allowances for the calendar years of 2024 through 2028. Also, according to EPA, the rule amends the consumption baseline to reflect updated data and to make other adjustments based on lessons learned from implementation of the Hydrofluorocarbon Phasedown Program thus far, including to: codify the existing approach of how allowances must be expended for import of regulated substances, revise recordkeeping and reporting requirements, and implement other modifications to the existing regulations.

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
“PHASEDOWN OF HYDROFLUOROCARBONS:
ALLOWANCE ALLOCATION METHODOLOGY FOR 2024 AND LATER YEARS”
(RIN: 2060-AV45)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) estimated the costs and benefits of this final rule. According to EPA, taking into account both the baseline adjustment and the updated recordkeeping and reporting costs, the estimated incremental cost of the rule is \$344 million from 2024 through 2050 in 2020 dollars, using a discount rate of 3 percent. EPA further stated that considering the incremental change to the consumption baseline associated with the rule, updates to recordkeeping and reporting costs, and the separate update to the analytical model, the present value of cumulative net benefits for the Hydrofluorocarbon Allocation Program between 2022 and 2050 is estimated to be \$269.9 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 would 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 does not contain any unfunded mandate subject to the Act and does not impose any enforceable duty on state, local, or tribal governments.

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

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

On November 3, 2022, EPA published a proposed rule. 87 Fed. Reg. 66372. EPA received comments on the proposed rule and discussed them in this final rule.

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

EPA determined that this final rule contains information collection activities subject to PRA. EPA stated that the information collection activities are associated with Office of Management and Budget (OMB) Control Number 2060-0734. EPA estimated the total burden hours per year of the information collections to be 58,057, at a total annual cost of \$7,931,630, which includes \$1,028,100 annualized capital or operation and maintenance costs.

Statutory authorization for the rule

EPA promulgated this final rule pursuant to Public Law 116-260.

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 that the rule has been submitted to OMB for review.

Executive Order No. 13132 (Federalism)

EPA determined that this final 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.