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April 17, 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: National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review*

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: Integrated Iron and Steel Manufacturing Facilities Technology Review” (RIN: 2060-AV82). We received the rule on March 26, 2024. It was published in the *Federal Register* as a final rule on April 3, 2024. 89 Fed. Reg. 23294. The effective date is June 3, 2024.

According to EPA, the final rule finalizes amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Integrated Iron and Steel Manufacturing Facilities to regulate hazardous air pollutant (HAP) emissions from five unmeasured fugitive and intermittent particulate (UFIP) sources previously not regulated by the NESHAP, as follows: Bell Leaks, Unplanned Bleeder Valve Openings, Planned Bleeder Valve Openings, Slag Pits, and Beaching. For sinter plants, EPA stated it is finalizing standards for five previously unregulated HAPs: carbonyl sulfide (COS), carbon disulfide (CS₂), mercury (Hg), hydrochloric acid (HCl), and hydrogen fluoride (HF). For blast furnace (BF) stoves and basic oxygen process furnaces (BOPFs) primary control devices, EPA further stated it is finalizing standards for three previously unregulated pollutants: total hydrocarbons (THCs) (as a surrogate for non-dioxin and non-furan organic HAPs), HCl, and dioxins/furans (D/Fs). For BF primary control devices, EPA also stated it is finalizing standards for two previously unregulated pollutants: THCs (as a surrogate for non-dioxin and non-furan organic HAPs) and HCl. As an update to the technology review for this source category, EPA stated it is finalizing: (1) work practice standards for the BOPF shops; (2) a requirement that facilities conduct Method 9 readings twice per month at the BOPF shop and BF casthouse; and (3) revised standards for D/Fs and polycyclic aromatic hydrocarbons (PAHs) for sinter plants. EPA stated it is also finalizing a fence-line monitoring requirement for total chromium (Cr), including a requirement that if a monitor exceeds a

Cr action level, the facility will need to conduct a root cause analysis and take corrective action to lower emissions.

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 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
“NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS:
INTEGRATED IRON AND STEEL MANUFACTURING FACILITIES TECHNOLOGY REVIEW”
(RIN: 2060-AV82)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) estimated the total estimated capital costs of the final rule to be \$7.1 million and total estimated annualized costs to be \$6.7 million for all the requirements for the source category. EPA further estimated the present-value (PV) of the short-term benefits for the final rule to be \$1.8 billion at a three percent discount rate and \$1.2 billion at a seven percent discount rate, with an equivalent annualized value (EAV) of \$200 million and \$170 million, respectively. EPA stated the EAV represents a flow of constant annual values that would yield a sum equivalent to the PV. According to EPA, the PV of the long-term benefits for the rule range are estimated to be \$3.7 billion at a three percent discount rate and \$2.6 billion at a seven percent discount rate, with an EAV of \$420 million and \$340 million, respectively.

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

EPA certified the 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 stated the final rule does not contain an unfunded mandate of \$100 million and does not significantly or uniquely affect small governments. EPA also stated the final rule imposes no enforceable duty on any state, local, or tribal governments or the private sector.

(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 the 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 July 31, 2023, EPA published a proposed rule. 88 Fed. Reg. 49402. EPA received comments on the proposed rule and addressed them in the final rule.

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

EPA determined the final rule contains information collection requirements (ICRs) subject to PRA. EPA assigned the ICR number 2003.10. EPA estimated the ICR would have a burden of 30,400 hours per year at a cost of \$3,950,000 per year.

Statutory authorization for the rule

EPA promulgated the final rule pursuant to sections 4701 *et seq.* of title 42, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

EPA determined the final rule was a significant regulatory action and submitted it to OMB for review.

Executive Order No. 13132 (Federalism)

EPA determined the 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.