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October 28, 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: Phasedown of Hydrofluorocarbons: Management of Certain Hydrofluorocarbons and Substitutes under the American Innovation and Manufacturing Act of 2020*

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) titled “Phasedown of Hydrofluorocarbons: Management of Certain Hydrofluorocarbons and Substitutes under the American Innovation and Manufacturing Act of 2020” (RIN: 2060-AV84). We received the rule on September 25, 2024. It was published in the *Federal Register* on October 11, 2024. 89 Fed. Reg. 82682. The effective date of the rule is December 10, 2024.

According to EPA, it is issuing regulations to implement certain provisions of the American Innovation and Manufacturing Act of 2020. *See generally* 42 U.S.C. § 7675. EPA stated that this rule establishes an emissions reduction and reclamation program for the management of hydrofluorocarbons that includes requirements for leak repair and installation and use of automatic leak detection systems for certain equipment using refrigerants containing hydrofluorocarbons and certain substitutes; the servicing and/or repair of certain refrigerant-containing equipment to be done with reclaimed hydrofluorocarbons; the initial installation and servicing and/or repair of fire suppression equipment to be done with recycled hydrofluorocarbons, technician training, and recycling of hydrofluorocarbons prior to the disposal of fire suppression equipment containing hydrofluorocarbons; removal of hydrofluorocarbons from disposable cylinders before discarding them; and certain recordkeeping, reporting, and labeling requirements. EPA also stated that it is establishing alternative Resource Conservation and Recovery Act standards for certain ignitable spent refrigerants being recycled for reuse. *See generally* Pub. L. No. 94-580, 90 Stat. 2795 (Oct. 21, 1976).

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 style with a large initial 'S' and 'J'.

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
TITLED
“PHASEDOWN OF HYDROFLUOROCARBONS:
MANAGEMENT OF CERTAIN HYDROFLUOROCARBONS AND SUBSTITUTES
UNDER THE AMERICAN INNOVATION AND MANUFACTURING ACT OF 2020”
(RIN: 2060-AV84)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) estimates that this rule will result in cumulative incremental emissions reductions of approximately 120 million metric tons of carbon dioxide equivalent from 2026 through 2050, and the present value of economic benefits of avoiding the damages associated with those emissions is estimated at \$8.4 billion (discounted to 2024 using a three percent discount rate). EPA also estimates the present value of compliance costs associated with the rule to be \$1.5 billion at a two percent discount rate, \$1.3 billion at a three percent discount rate, or \$0.9 billion at a seven percent discount rate. 89 Fed. Reg. 82682, 82835 (Oct. 11, 2024).

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

EPA certified that this rule will not have a significant economic impact on a substantial number of small entities. 89 Fed. Reg. at 82857.

(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 rule will not have an effect on state, local, or tribal governments, in the aggregate, or on the private sector, of \$100 million in 1995 dollars, updated annually for inflation, in any one year. 89 Fed. Reg. at 82858

(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.

In its submission to us, EPA indicated the Act is not applicable to this rule.

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

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

On October 19, 2023, EPA published a proposed rule. 88 Fed. Reg. 72216. EPA stated that it received comments from various interested parties. 89 Fed. Reg. at 82684. EPA also stated that it responded to comments in this rule. *Id.* at 82685.

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

EPA determined that this rule contains information collection requirements under the Act. 89 Fed. Reg. at 82857.

Statutory authorization for the rule

EPA promulgated this rule pursuant to sections 1006, 2002, 3001–3009, 3014, 3017, 6905, 6906, 6912, 6921, 6922–6927, 6924, 6934, 6937, 6938, 6939, 6939g and 6974 of title 42; and Public Law 116-260, division S, section 103.

Executive Order No. 12866 (Regulatory Planning and Review)

EPA stated that this rule is significant under the Order and submitted it to OMB for review. 89 Fed. Reg. at 82857.

Executive Order No. 13132 (Federalism)

EPA determined that this rule does not have federalism implications. 89 Fed. Reg. 82858.