

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

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October 18, 2021

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: Phasedown of Hydrofluorocarbons: Establishing the Allowance Allocation and Trading Program Under the American Innovation and Manufacturing Act*

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: Establishing the Allowance Allocation and Trading Program Under the American Innovation and Manufacturing Act” (RIN: 2060-AV17). We received the rule on September 27, 2021. It was published in the *Federal Register* as a final rule on October 5, 2021. 86 Fed. Reg. 55116. The effective date is November 4, 2021.

According to EPA, the final rule 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 this Act mandates the phasedown of hydrofluorocarbons (HFCs), which are highly potent greenhouse gases, by 85 percent over a period ending in 2036. EPA further stated the Act directs it to implement the phasedown by issuing a fixed quantity of transferrable production and consumption allowances, which producers and importers of HFCs must hold in quantities equal to the amount of HFCs they produce or import. To establish the allowance allocation program, EPA stated the final rule determines the HFC production and consumption baselines, from which allowed production and consumption will decrease consistent with the statutory phasedown schedule; provides an initial approach to allocating calendar-year allowances and allowing for the transfer of those allowances; establishes provisions for the international transfer of allowances; and establishes recordkeeping and reporting requirements. Additionally, according to EPA, the final rule establishes provisions to support implementation, compliance with, and enforcement of, statutory and regulatory requirements under the Act’s phasedown provisions. Over the time period from 2022–2050, EPA determined the final rule will avoid cumulative emissions of 4,560 million metric tons of exchange value equivalent of HFCs in the United States with a present value of cumulative net benefits of \$272.7 billion.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The final rule was published on October 5, 2021. 86 Fed. Reg. 55116. The Senate received the final rule on September 28, 2021, and the *Congressional Record* does not indicate when the House of Representatives received it. 167 Cong. Reg. S6892 (daily ed. Oct. 4, 2021). The final rule has an effective date of November 4, 2021. Therefore, the final rule does not have the required 60-day delay.

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 cursive script that reads "Shirley A. Jones". The signature is written in black ink and is positioned above the printed name and title.

Shirley A. Jones  
Managing Associate General Counsel

Enclosure

cc: Melissa Kramer  
Associate Division Director  
Regulatory Management Division  
Environmental Protection Agency

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
ENVIRONMENTAL PROTECTION AGENCY  
ENTITLED  
“PHASEDOWN OF HYDROFLUOROCARBONS: ESTABLISHING THE  
ALLOWANCE ALLOCATION AND TRADING PROGRAM UNDER  
THE AMERICAN INNOVATION AND MANUFACTURING ACT”  
(RIN: 2060-AV17)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) estimated the costs and benefits of the final rule. EPA estimated that in 2022, the annual net benefits of the rule are \$1.7 billion, reflecting compliance costs associated with recordkeeping and reporting and refillable cylinders and cost savings due to lower refrigerant replacement costs and reduced energy consumption of \$300 million and social benefits of \$1.4 billion. EPA further stated that in 2036, when the final phasedown step is reached at 15 percent of the statutorily defined hydrofluorocarbons baseline, the estimated annual net benefits of the rule are \$16.4 billion. EPA stated the present value of cumulative net benefits evaluated from 2022 through 2050 is \$272.7 billion at a 3 percent discount rate, or \$260.9 billion at a 7 percent discount rate. Over the same time period, EPA stated the equivalent annualized value (EAV) of benefits is \$13.6 billion when using a 3 percent discount rate; the EAV of costs is -\$0.6 billion when using a 3 percent discount rate, and -\$0.5 billion when using a 7 percent discount rate; and the EAV of cumulative net benefits over the period 2022-2050 is \$14.2 billion when using a 3 percent discount rate, and \$14.1 billion when using a 7 percent discount rate. Lastly, EPA stated that present value of net benefits is calculated over the 29-year period from 2022-2050 to account for additional years that emissions will be reduced following the consumption reductions from 2022-2036.

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

EPA certified the 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 the 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 May 19, 2021, EPA published a proposed rule. 86 Fed. Reg. 27150. EPA received comments on the proposed rule and discussed them in the final rule.

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

EPA determined the final rule contained information collection requirements (ICRs) subject to PRA. The ICRs are associated with Office of Management and Budget (OMB) Control Numbers 2060-0629 and 2060-0732. EPA estimated the total burden hours per year of the ICRs to be 83,598 at a total annual costs of \$12,102,515.

Statutory authorization for the rule

EPA promulgated the final rule pursuant to sections 135 *et seq.*, 136–136y of title 7; sections 2001, 2003, 2005, 2006, and 2601–2671 of title 15; sections 331j and 346a of title 21; section 9701 of title 31; sections 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345, and 1361 of title 33; sections 241, 242b, 243, 246, 300f, 300g, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-1, 300j-2, 300j-3, 300j-4, 300j-9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, and 11048 of title 42, United States Code; as well as Public Law 116-260.

Executive Order No. 12866 (Regulatory Planning and Review)

EPA stated the final rule was economically significant and had been reviewed by OMB.

Executive Order No. 13132 (Federalism)

EPA determined the final 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.