



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

B-327608

December 11, 2015

The Honorable Jim Inhofe
Chairman
The Honorable Barbara Boxer
Ranking Member
Committee on Environment and Public Works
United States Senate

The Honorable Fred Upton
Chairman
The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Environmental Protection Agency: Petroleum Refinery Sector Risk and Technology Review and New Source Performance 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 "Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standards" (RIN: 2060-AQ75). We received the rule on October 16, 2015. It was published in the *Federal Register* as a final rule on December 1, 2015. 80 Fed. Reg. 75,178.

The final rule pertains to the residual risk and technology review conducted for the Petroleum Refinery source categories regulated under the national emission standards for hazardous air pollutants Refinery maximum achievable control technology (MACT) 1 and Refinery MACT 2. It also includes revisions to the Refinery MACT 1 and MACT 2 rules in accordance with provisions regarding establishment of MACT standards. The final rule finalizes technical corrections and clarifications for the new source performance standards for petroleum refineries to improve consistency and clarity and address issues related to a 2008 industry petition for reconsideration. EPA states that implementation of this final rule will result in projected reductions of 5,200 tons per year of hazardous air pollutants that will reduce cancer risk and chronic health effects.

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. Our review of the procedural steps taken indicates that EPA complied with the applicable requirements.

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 Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Nicole Owens
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
“PETROLEUM REFINERY SECTOR RISK AND
TECHNOLOGY REVIEW AND NEW SOURCE
PERFORMANCE STANDARDS”
(RIN: 2060-AQ75)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) prepared an analysis of the potential costs and benefits associated with this final rule. EPA determined that the amendments will result in nationwide costs of \$63.2 million per year for the private sector. Additionally, EPA included tables that summarized the cost and emission reduction impacts of the final amendments and summarized the costs of the final standards to ensure compliance.

EPA stated that this final rule is anticipated to result in a reduction of 1,323 tons per year (tpy) of hazardous air pollutants--based on allowable emissions under the MACT standards--and 16,660 tpy of volatile organic compounds, not including potential emission reductions that may occur as a result of the operating and monitoring requirements for flares and fugitive emission sources via fence-line monitoring. EPA concluded that these avoided emissions will result in improvements in air quality and reduced negative health effects associated with exposure to air pollution of these emissions. EPA did not quantify or monetize the benefits of reducing these emissions for the final rule.

(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 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 determined that the final rule does not contain an unfunded mandate of \$100 million or more and does not significantly or uniquely affect small governments.

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

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

On June 30, 2014, EPA published a proposed rule. 79 Fed. Reg. 36,879. On August 15, 2014, the period for notice and comment was extended. 79 Fed. Reg. 48,111. EPA summarized some of the more significant comments received regarding the proposed rule and responded to comments in the final rule. A summary of all other public comments on the proposal and EPA's responses to those comments are provided in the "Response to Comment" document, which is available in Docket ID No. EPA-HQ-OAR-2010-0682.

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

EPA determined that this final rule contains information collection requirements (ICR) under PRA. EPA stated that the information collection requirements for the amendments to the Petroleum Refinery MACT standards for 40 C.F.R. part 63, subpart CC has been assigned the EPA ICR number 1692.08. Burden changes associated with these amendments would result from new monitoring, recordkeeping, and reporting requirements. EPA estimated that the annual increase in recordkeeping and reporting burden hours is 99,722 hours, the frequency of response is quarterly and semiannual for reports for all respondents that must comply with the rule's reporting requirements, and the estimated average number of likely respondents per year is 95 (this is the average in the second year). The cost burden to respondents resulting from the collection of information includes the total capital cost annualized over the equipment's expected useful life (about \$18 million, which includes monitoring equipment for fence-line monitoring, pressure relief devices, and flares), a total operation and maintenance component (about \$21 million per year for fence-line and flare monitoring), and a labor cost component (about \$8.3 million per year, the cost of the additional 99,722 labor hours).

EPA stated that the ICR for the amendments to the Petroleum Refinery MACT standards for 40 C.F.R. part 63, subpart UUU has been assigned the EPA ICR number 1844.06. Burden changes associated with these amendments would result from new testing, recordkeeping, and reporting requirements being finalized with the rule. EPA estimated that the average burden per response is 25 hours, the frequency of response ranges from annually up to every 5 years for respondents that have fluid catalytic cracking units, and the estimated average number of likely respondents per year is 67. The cost burden to respondents resulting from the collection of information includes the performance testing costs (approximately \$778,000 per year over the first 3 years for the initial particulate matter and one-time hydrogen cyanide performance tests and \$235,000 per year starting in the fourth year) and a labor cost component (approximately \$410,000 per year for 4,940 additional labor hours).

Statutory authorization for the rule

EPA states that it promulgated this final rule under the authority of sections 111 and 112 of the Clean Air Act (42 U.S.C. §§ 7411-7412).

Executive Order No. 12,866 (Regulatory Planning and Review)

EPA determined that the final rule is an economically significant regulatory action under the Order, and it was submitted to the Office of Management and Budget for review.

Executive Order No. 13,132 (Federalism)

EPA determined that the final rule does not have federalism implications and that it 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.