



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

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May 21, 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: Gasoline Distribution Technology Reviews and New Source Performance Standards Review for Bulk Gasoline Terminals*

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: Gasoline Distribution Technology Reviews and New Source Performance Standards Review for Bulk Gasoline Terminals” (RIN: 2060-AU97). We received the rule on March 6, 2024. It was published in the *Federal Register* as a final rule on May 8, 2024. 89 Fed. Reg. 39304. The effective date of the rule is July 8, 2024.

With this final rule, EPA stated that it is finalizing the technology reviews conducted for the National Emission Standards for Hazardous Air Pollutants (NESHAP) for gasoline distribution facilities and the review of the new source performance standards (NSPS) for bulk gasoline terminals pursuant to the requirements of the Clean Air Act. According to EPA, the final NESHAP amendments include revised requirements for storage vessels, loading operations, and equipment to reflect cost-effective developments in practices, processes, or controls. EPA stated that the final NSPS reflect the best system of emission reduction for loading operations and equipment leaks. EPA further stated that it is finalizing revisions related to emissions during periods of startup, shutdown, and malfunction; adding requirements for electronic reporting; revising monitoring and operating requirements for control devices; and making other minor technical improvements.

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 a distinct 'A'.

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:  
GASOLINE DISTRIBUTION TECHNOLOGY REVIEWS AND NEW SOURCE  
PERFORMANCE STANDARDS REVIEW FOR BULK GASOLINE TERMINALS”  
(RIN: 2060-AU97)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) estimated that this final rule will cost approximately \$75.8 million in total capital costs and result in total annualized cost savings of \$3.77 million per year. Regarding benefits, EPA stated it expects health benefits as a result of the emissions reductions projected under the rule. EPA estimated the present value of the net benefits, which equates to monetized health benefits minus monetized climate disbenefits, for the rule to range from \$210 million at a 3 percent discount rate to \$110 million at a 7 percent discount rate for short-term effects and \$2,000 million at a 3 percent discount rate to \$1,200 million at a 7 percent discount rate for long-term effects.

(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 this final rule does not contain an unfunded mandate for state, local, or tribal governments, in the aggregate, or on the private sector, of \$100 million or more, adjusted annually for inflation, in any one year.

(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 discuss the Act in this 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 June 10, 2022, EPA published a proposed rule. 87 Fed. Reg 35608. EPA received comments on the proposed rule and addressed significant comments in this final rule. EPA stated that a summary of other public comments and EPA's responses is available in the docket for the rule.

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

EPA determined that this final rule contains information collection requirements (ICRs) under PRA and submitted these requirements to OMB for review. EPA further stated that the titles of the affected collections of information, along with the associated paperwork burden effects of the rule are as follows:

- EPA ICR Number 1659.12: 16,300 hours per year; \$972,013 per year;
- EPA ICR Number 2237.07: 83,882 hours per year; \$5,001,981 per year; and
- EPA ICR Number 2720.01: 1,132 hours per year; \$66,930 per year.

Statutory authorization for the rule

EPA promulgated this final rule pursuant to sections 111 and 112 of the Clean Air Act, 42 U.S.C. § 7401 *et seq.*

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 submitted it to OMB for review. EPA further stated that it prepared a regulatory impact analysis consistent with the Order.

Executive Order No. 13132 (Federalism)

EPA determined that this 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.