



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

B-336377

May 31, 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: New Source Performance Standards for the Synthetic Organic Chemical Manufacturing Industry and National Emission Standards for Hazardous Air Pollutants for the Synthetic Organic Chemical Manufacturing Industry and Group I & II Polymers and Resins Industry*

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 “New Source Performance Standards for the Synthetic Organic Chemical Manufacturing Industry and National Emission Standards for Hazardous Air Pollutants for the Synthetic Organic Chemical Manufacturing Industry and Group I & II Polymers and Resins Industry” (RIN: 2060-AV71). We received the rule on April 4, 2024. It was published in the *Federal Register* as a final rule on May 16, 2024. 89 Fed. Reg. 42932. The effective date of the rule is July 15, 2024.

This final rule amends the New Source Performance Standards (NSPS) that apply to the Synthetic Organic Chemical Manufacturing Industry (SOCMI). The rule also amends the National Emission Standards for Hazardous Air Pollutants (NESHAP) that apply to the SOCMI, more commonly known as the Hazardous Organic NESHAP (HON), and the Group I and II Polymers and Resins industries.

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.

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
“NEW SOURCE PERFORMANCE STANDARDS FOR THE SYNTHETIC ORGANIC
CHEMICAL MANUFACTURING INDUSTRY AND NATIONAL EMISSION STANDARDS
FOR HAZARDOUS AIR POLLUTANTS FOR THE SYNTHETIC ORGANIC CHEMICAL
MANUFACTURING INDUSTRY AND GROUP I & II POLYMERS AND RESINS INDUSTRY”
(RIN: 2060-AV71)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) indicated that this final rule will cumulatively cost approximately \$522 million in total capital costs and \$194 million per year in total annualized costs in 2021 dollars, including product recovery costs. EPA anticipates that the rule will be beneficial in that the emissions controls are expected to reduce the emissions of a number of hazardous air pollutants and volatile organic compounds. EPA noted that the hazardous air pollutants at issue here have been associated with cancer-risk in humans, along with other health effects, and explained that they did not try to monetize health benefits resulting from a reduction in emissions of those pollutants due to methodology and data limitations. EPA did provide several different estimates of the monetized benefits associated with a reduction in emissions of volatile organic compounds covered by the rule. For example, according to EPA, the combined total present value of the monetized human health benefits pertaining to a reduction in volatile organic compounds as a result of the rule are \$77 million and \$690 million at a 3 percent discount rate and \$53 million and \$475 million at a 7 percent discount rate. EPA provided a description of the methodology used for the estimates, as well as additional estimates in the 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 would not have a significant economic impact on a substantial number of small entities under the Act.

(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 of \$100 million or more, adjusted annually for inflation, and does not significantly or uniquely affect small governments. The costs involved in this action are estimated not to exceed \$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 April 25, 2023, EPA published a proposed rule. 88 Fed. Reg. 25080. EPA received comments on the proposed rule, and made several changes based on consideration of comments received during the public comment period.

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

EPA determined that certain sections of this final rule contain information collection requirements under the Act. Those information collection requirements have been submitted to OMB for approval. This includes requirements pertaining to: (1) Hazardous Organic National Emission Standards for Hazardous Air Pollutants (HON), information collection request (ICR) Number 2753.02; (2) Group I Polymers and Resins (P&R I) National Emission Standards for Hazardous Air Pollutants (NESHAP), ICR Number 2410.07; (3) Group II Polymers and Resins (P&R II) NESHAP, ICR Number 1681.12 and OMB Control Number 2060-0290; (4) New Source Performance Standards (NSPS) subpart VVb, ICR Number 2755.02; (5) NSPS subpart IIIa, ICR Number 2756.02; (6) NSPS subpart NNNa, ICR Number 2757.02; and (7) NSPS subpart RRRa, ICR Number 2759.02. EPA also determined that NSPS subparts VV, VVa, III, NNN, and RRR do not contain new information collection requirements under the Act. According to EPA, OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB Control Number 2060-0443 for collection activities under those sections.

Statutory authorization for the rule

EPA promulgated this final rule pursuant to section 7401, *et seq.* of title 42 of the United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

EPA determined that this final rule is economically significant under the Order and submitted it to OMB for review.

Executive Order No. 13132 (Federalism)

EPA concluded 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.