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July 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: National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants Technology Review*

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: Lime Manufacturing Plants Technology Review” (RIN: 2060-AV59). We received the rule on July 1, 2024. It was published in the *Federal Register* as a final rule on July 16, 2024. 89 Fed. Reg. 57738. The effective date is September 16, 2024.

EPA states that this final rule finalizes amendments to the National Emission Standards for Hazardous Air Pollutants for lime manufacturing plants. Specifically, according to EPA, the rule finalizes maximum achievable control technology standards for hydrogen chloride, mercury, organic hazardous air pollutants, and dioxin/furans.

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
“NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS:
LIME MANUFACTURING PLANTS TECHNOLOGY REVIEW”
(RIN: 2060-AV59)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) prepared a regulatory impact analysis for this final rule. This analysis, among other things, analyzed engineering costs, discussed the benefits of emissions reductions, and compared costs and benefits. Using a 2 percent discount rate, EPA estimated the present value of the rule’s total annual costs is \$2.38 billion, and the equivalent annualized value is \$145 million, in 2022 dollars. EPA stated it was unable to monetize the rule’s benefits but its non-monetized benefits include the health effects of reduced pollutant exposure.

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

EPA prepared a final regulatory flexibility analysis. The analysis (1) provided a statement of the need for, and objectives of, this final rule; (2) stated that EPA received no comments in response to the initial regulatory flexibility analysis but did receive comments from the Small Business Administration’s Office of Advocacy; (3) estimated the number of small entities to which the rule applies; (4) described the rule’s projected reporting, recordkeeping, and other compliance requirements; and (5) described the steps taken to minimize the economic impact to 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 may require expenditures of \$100 million or more in any one year by the private sector. EPA stated it prepared a written statement under section 202 of the Act that is included with the regulatory impact analysis.

(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. In its submission to us, EPA indicated the Act was not applicable to the rule.

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

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

On January 5, 2023, EPA published a proposed rule. 88 Fed. Reg. 805. On August 3, 2023, EPA convened a Small Business Advocacy Review panel to obtain advice and recommendations from small entity representatives. On February 9, 2024, EPA published a supplemental proposal to address information received from public commenters and other information sources, including the panel. 89 Fed. Reg. 9088. EPA stated it summarized some of the more significant comments and responded to them in this final rule. EPA further stated it summarized and responded to all other public comments in a separate document included in the rule’s docket.

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

EPA determined that this final rule contains information collection requirements under the Act. EPA stated that it submitted the information collection activities in the rule to OMB for approval (information collection request number 2072.11). According to EPA, the rule’s total estimated burden is 8,392 hours per year and its total estimated cost is \$1,190,000 per year.

Statutory authorization for the rule

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

Executive Order No. 12866 (Regulatory Planning and Review)

EPA determined that this final rule is significant under the Order and stated that it prepared a regulatory impact analysis.

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.