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December 3, 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: Waste Emissions Charge for Petroleum and Natural Gas Systems: Procedures for Facilitating Compliance, Including Netting and Exemptions*

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 “Waste Emissions Charge for Petroleum and Natural Gas Systems: Procedures for Facilitating Compliance, Including Netting and Exemptions” (RIN: 2060-AW02). We received the rule on November 15, 2024. It was published in the *Federal Register* on November 18, 2024. 89 Fed. Reg. 91094. The effective date of the rule is January 17, 2025.

This rule facilitates compliance with the requirements of the Waste Emissions Charge in the Clean Air Act’s Methane Emissions Reduction Program. Enacted as part of the Inflation Reduction Act, this program requires EPA to impose and collect an annual charge on methane emissions that exceed waste emissions thresholds specified by Congress.

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
“WASTE EMISSIONS CHARGE FOR PETROLEUM AND NATURAL GAS SYSTEMS:
PROCEDURES FOR FACILITATING COMPLIANCE,
INCLUDING NETTING AND EXEMPTIONS”
(RIN: 2060-AW02)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) prepared an analysis of the costs and benefits for this rule. See 89 Fed. Reg. 91155–91158 (Nov. 18, 2024). EPA estimated that the rule will result in total social costs of about \$48 million through 2035, at a seven percent discount rate, and will result in net benefits of about \$180 million. *Id.* at 91157. EPA also assessed climate and non-monetary benefits associated with the emissions reductions projected in the rule. *Id.*

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

EPA stated that the EPA Administrator has certified that this rule will not have a significant economic impact on a substantial number of small entities. See 89 Fed. Reg. 91159.

(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 rule will result in expenditures of \$100 million or more, adjusted annually for inflation, for state, local, and tribal governments, in the aggregate, or the private sector in any one year. 89 Fed. Reg. 91159. EPA described these effects and the actions they took in accordance with the Act. *Id.* at 91159–91160.

(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.

In its submission to us, EPA indicated the Act is 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 26, 2024, EPA published a proposed rule. 89 Fed. Reg. 5318. EPA stated that they received comments from various interested parties. See 89 Fed. Reg. 91097. EPA responded to comments in the rule. *Id.*

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

EPA determined that this rule contains information collection requirements under the Act. 89 Fed. Reg. 91158.

Statutory authorization for the rule

EPA promulgated this rule pursuant to 5 U.S.C. §§ 552, 552a, 553; 28 U.S.C. §§ 509, 510, 534; 31 U.S.C. § 3717; and 42 U.S.C. §§ 7401–7671q.

Executive Order No. 12866 (Regulatory Planning and Review)

EPA stated that this rule is significant under the Order. See 89 Fed. Reg. 91158. EPA stated that the rule was submitted to OMB for review. *Id.*

Executive Order No. 13132 (Federalism)

EPA determined that this rule does not have federalism implications. See 89 Fed. Reg. 91160.