



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

B-328661

December 19, 2016

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: Formaldehyde Emission Standards for Composite Wood Products*

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 "Formaldehyde Emission Standards for Composite Wood Products" (RIN: 2070-AJ44). We received the rule on November 18, 2016. It was published in the *Federal Register* as a final rule on December 12, 2016, with an effective date of February 10, 2017. 81 Fed. Reg. 89,674.

The final rule implements the Formaldehyde Standards for Composite Wood Products Act, which added title VI to the Toxic Substances Control Act (TSCA).¹ According to EPA, the purpose of TSCA title VI is to reduce formaldehyde emissions from composite wood products, which will reduce exposures to formaldehyde and result in benefits from avoided adverse health effects. This final rule includes formaldehyde emission standards applicable to hardwood plywood, medium-density fiberboard, and particleboard, and finished goods containing these products, that are sold, supplied, offered for sale, or manufactured (including imported) in the United States. This final rule includes provisions relating to, among other things, laminated products, products made with no-added formaldehyde resins or ultra low-emitting formaldehyde resins, testing requirements, product labeling, chain of custody documentation and other recordkeeping requirements, enforcement, import certification, and product inventory sell-through provisions, including a product stockpiling prohibition. This final rule also establishes a third-party certification program for hardwood plywood, medium-density fiberboard, and particleboard and includes procedures for the accreditation of third-party certifiers and general requirements for accreditation bodies and third-party certifiers.

¹ Pub. L. No. 111-199, 124 Stat. 1359 (July 7, 2010), *codified at* 15 U.S.C. § 2697.

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
“FORMALDEHYDE EMISSION STANDARDS FOR
COMPOSITE WOOD PRODUCTS”
(RIN: 2070-AJ44)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) assessed the costs and benefits of this final rule. EPA described the benefits as reducing exposures to formaldehyde, which results in benefits from avoided adverse health effects. For the subset of health effects where the results were quantified, EPA estimated annualized benefits (due to avoided incidence of eye irritation and nasopharyngeal cancer) to be \$64 million to \$186 million per year using a 3 percent discount rate, and \$26 million to \$79 million per year using a 7 percent discount rate. EPA also noted that there are additional unquantified benefits due to other avoided health effects. EPA estimated the annualized costs of this rule to be \$38 million to \$83 million per year using a 3 percent discount rate, and \$43 million to \$78 million per year using a 7 percent discount rate.

(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 which included discussions of (1) the need for and objectives of the rule; (2) a description and number of small entities to which the rule will apply; (3) projected compliance; (4) classes of small entities subject to the compliance requirements; (5) professional skills needed to comply; (6) other federal rules that may duplicate, overlap, or conflict with the rule; (7) potential economic impacts on small entities; (8) the small business advocacy panel; (9) alternatives incorporated into the rule; and (10) alternatives considered, but not incorporated into the rule.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

EPA determined this final rule contains a federal mandate under the Act that may result in expenditures of \$100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year. Accordingly, EPA prepared a written statement which included discussions of the authorizing legislation; the cost-benefit analysis; state, local, and tribal government input; and the least burdensome option.

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

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

On December 3, 2008, EPA published an advance notice of proposed rulemaking and notice of public meetings. 73 Fed. Reg. 73,620. On January 30, 2009, EPA extended the comment

period. 74 Fed. Reg. 5632. On June 10, 2013, EPA published a proposed rule. 78 Fed. Reg. 34,796. On July 23 and again on August 21, 2013, EPA extended the comment period for the proposed rule. 78 Fed. Reg. 44,090, 51,696. EPA responded to comments in the final rule.

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

EPA determined that this final rule contains information collection requirements under the Act, which it submitted to the Office of Management and Budget (OMB) for review under OMB Control Number 2070-0185. EPA estimates the total burden will be 1.5 million hours per year when excluding burden for activities performed in the baseline or 1.7 million hours per year when including burden for activities performed in the baseline. EPA estimates the total cost will be \$105 million per year when excluding cost for activities performed in the baseline or \$138 million per year when including cost for activities performed in the baseline, with no annualized capital or operation and maintenance costs.

Statutory authorization for the rule

EPA promulgated this final rule under the authority of section 601 of the Toxic Substances Control Act. 15 U.S.C. § 2697.

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

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

Executive Order No. 13,132 (Federalism)

EPA determined that this final rule will not have federalism implications under the Order as 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.