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B-331803

March 5, 2020

The Honorable John Barrasso
Chairman
The Honorable Thomas R. Carper
Ranking Member
Committee on Environment and Public Works
United States Senate

The Honorable Frank Pallone, Jr.
Chairman
The Honorable Greg Walden
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Environmental Protection Agency: Review of the Dust-Lead Hazard Standards and the Definition of Lead-Based Paint*

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 “Review of the Dust-Lead Hazard Standards and the Definition of Lead-Based Paint” (RIN: 2070-AJ82). We received the rule on June 28, 2019.¹ The House of Representatives and the Senate received the rule on June 28, 2019. 165 Cong. Rec. H5581 (daily ed. July 10, 2019); 165 Cong Rec. S4697-S4698 (daily ed. July 8, 2019). It was published in the *Federal Register* as a final rule on July 9, 2019. 84 Fed. Reg. 32632. The effective date of the rule is January 6, 2020.

The final rule states that, as part of EPA’s efforts to reduce childhood lead exposure, EPA evaluated the current dust-lead hazard standards (DLHS) and the definition of lead-based paint. Based on this evaluation, the final rule revises DLHS from 40 µg/ft² and 250 µg/ft² to 10 µg/ft² and 100 µg/ft² on floors and window sills, respectively. The rule also states that EPA is finalizing its proposal to make no change to the definition of lead-based paint because insufficient information exists to support such a change at this time.

¹ The Congressional Review Act requires GAO to provide our major rule reports to the committees of jurisdiction by the end of 15 days after the submission or publication date. 5 U.S.C. § 801(a)(2)(A). In conjunction with our practice of conducting outreach to agencies when we believe a rule has not been submitted, we discovered that the rule was actually received internally on June 28, 2019, but was misclassified as a nonmajor rule in our database. Consequently, our report should have been issued by the end of 15 days after the July 9, 2019, publication date.

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 Janet Temko-Blinder, Assistant General Counsel, at (202) 512-7104.

signed

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Director of the 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
“REVIEW OF THE DUST-LEAD HAZARD STANDARDS
AND THE DEFINITION OF LEAD-BASED PAINT”
(RIN: 2070-AJ82)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) estimated the annualized benefits of the rule to be \$268 million to \$2.3 billion per year using a 3 percent discount rate and \$58 million to \$509 million using a 7 percent discount rate. EPA stated that the benefit calculations are highly sensitive to the discount rate and to the range in the estimated number of lead hazard reduction events triggered by the blood lead levels in children who have had their blood levels tested. EPA further stated that, with respect to the latter, the wide range is driven by uncertainty about specifics of state and local regulations and about the blood lead levels at which action might be taken. According to EPA, there are additional unquantified benefits due to other avoided adverse health effects in children, including attention-related behavioral problems, greater incidence of problem behaviors, decreased cognitive performance, reduced post-natal growth, delayed puberty and decreased kidney function. EPA estimated costs of \$32 million to \$117 million per year using either a 3 percent or 7 percent discount rate. EPA stated that the cost calculations are highly sensitive to the range in the estimated number of lead hazard reduction events triggered by children with elevated blood lead levels.

(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 (UMRA) of 1995, 2 U.S.C. §§ 1532-1535

EPA determined that this final rule does not contain a federal mandate of \$156 million or more (\$100 million, adjusted for inflation) as described in UMRA.

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

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

On July 2, 2018, EPA published a proposed rule. 83 Fed. Reg. 30889. EPA received 67 comments during the 45-day public comment period. After the close of the comment period, EPA received an additional 13,376 comments, nearly all of which were submitted as part of a mass mail campaign. EPA received comments from private citizens, state governments, potentially affected businesses, academics, trade associations, and environmental and public health advocacy groups. EPA responded to comments in the final rule.

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

EPA determined that the rule contains no new information collection requirements under PRA, and the rule contains no changes to the existing requirements that might impact existing information collection request burden estimates.

Statutory authorization for the rule

EPA promulgated this final rule under the authority of sections 2605, 2607, and 2681 through 2692 of title 15, United States Code, and section 4852d of title 42, United States Code.

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

EPA determined that this final rule is an economically significant action under the Order and submitted it to the Office of Management and Budget for review.

Executive Order No. 13,132 (Federalism)

EPA determined that this final rule does not have federalism implications and does not impose 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.