



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

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November 26, 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: Reconsideration of the Dust-Lead Hazard Standards and Dust-Lead Post-Abatement Clearance Levels*

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) titled “Reconsideration of the Dust-Lead Hazard Standards and Dust-Lead Post-Abatement Clearance Levels” (RIN: 2070-AK91). We received the rule on October 24, 2024. It was published in the *Federal Register* on November 12, 2024. 89 Fed. Reg. 89416. The effective date of the rule is January 13, 2025.

According to EPA, this rule finalizes its proposal to lower the dust-lead hazard standards to any reportable level as analyzed by a laboratory recognized by EPA's National Lead Laboratory Accreditation Program. EPA stated that the rule was released as a part of its high-priority efforts to reduce childhood lead exposure, and in accordance with a U.S. Court of Appeals for the Ninth Circuit 2021 opinion. See *generally, A Community Voice v. EPA*, 997 F.3d 983, 992 (9th Cir. 2021). EPA also stated that its lead-based paint (LBP) regulations do not compel property owners or occupants to evaluate their property for LBP hazards or to take control actions, but if an LBP activity such as an abatement is performed, then EPA's regulations set requirements for doing so. EPA stated further that it is also finalizing changes to lower the post-abatement dust-lead clearance levels to 5 micrograms per square foot ( $\mu\text{g}/\text{ft}^2$ ), 40  $\mu\text{g}/\text{ft}^2$ , and 100  $\mu\text{g}/\text{ft}^2$  for floors, windowsills, and troughs, respectively. Due to feedback from public comments, EPA noted that it is also finalizing changes to the nomenclature to adopt the terms dust-lead reportable levels (DLRL) and dust-lead action levels (DLAL). EPA also stated that given the decoupling of the action levels from the reportable levels, EPA is finalizing revisions to the definition of abatement so that the recommendation for action based on dust-lead applies when dust-lead loadings are at or above the action levels, rather than the hazard standards, as has been the case historically. EPA explained that the dust-lead hazard standards will be described as DLRL moving forward (i.e., after publication of this rule) and the dust-lead

clearance levels will be described as DLAL. Finally, EPA stated that it is finalizing several other amendments, including revising the definition of target housing to conform with the statute.

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.

A handwritten signature in cursive script that reads "Shirley A. Jones". The signature is written in black ink and is positioned above the printed name and title.

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  
“RECONSIDERATION OF THE DUST-LEAD HAZARD STANDARDS  
AND DUST-LEAD POST-ABATEMENT CLEARANCE LEVELS”  
(RIN: 2070-AK91)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) prepared an analysis of the costs and benefits of this rule. According to EPA, the rule will result in reduced exposure to lead, yielding benefits to residents of pre-1978 housing from avoided adverse health effects. Using a 2 percent discount rate, EPA estimates the annualized benefits of improved cognitive function in children (quantified using the effect of avoided IQ decreases on lifetime earnings) to be \$831 million to \$3.1 billion per year; the annualized benefits of reduced cases of attention deficit hyperactivity disorder (ADHD) in children to be \$129 million to \$274 million per year; and the annualized benefits of reduced cases of cardiovascular mortality in adults to be \$614 million to \$6.9 billion per year. EPA also estimates the total annualized quantified benefits for all health endpoints to range from \$1.6 billion to \$10.3 billion per year. EPA stated that it also analyzed the effect of mothers' exposures to lead on the risk of low birthweight in their infants, and that the increases in birth weights as a result of the rule, however small, may still reduce initial birth-related costs and hospitalization costs incurred by mothers. EPA also stated that the rule is estimated to result in quantified costs of \$207 million to \$348 million per year. EPA stated further that these costs are expected to accrue to landlords, owners and operators of child-occupied facilities, residential remodelers, and abatement firms. 89 Fed. Reg. 89416, 89418–89419.

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

The Administrator of EPA has certified that this rule will not have a significant economic impact on a substantial number of small entities. 89 Fed. Reg. at 89453.

(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. at 89453. EPA described these effects and the actions it took in accordance with the Act. *Id.*

(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 this rule.

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

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

On August 1, 2023, EPA issued a proposed rule. 88 Fed. Reg. 50444. EPA stated that they received comments from various interested parties. 89 Fed. Reg. 89425. EPA responded to the comments in this 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. at 89452.

Statutory authorization for the rule

EPA promulgated this rule pursuant to sections 2601–2629 and 2681–2692 of title 15; and sections 4851d and 4852d of title 42, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

EPA stated that this rule is significant under the Order and submitted it to OMB for review. 89 Fed. Reg. at 89452.

Executive Order No. 13132 (Federalism)

EPA determined that this rule has federalism implications. 89 Fed. Reg. at 89454.