

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

B-332923

February 9, 2021

The Honorable Thomas R. Carper
Chairman
The Honorable Shelley Moore Capito
Ranking Member
Committee on Environment and Public Works
United States Senate

The Honorable Frank Pallone, Jr.
Chairman
The Honorable Cathy McMorris Rodgers
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Environmental Protection Agency: National Primary Drinking Water Regulations: Lead and Copper Rule Revisions*

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 Primary Drinking Water Regulations: Lead and Copper Rule Revisions” (RIN: 2040-AF15). We received the rule on January 26, 2021. It was published in the *Federal Register* as a final rule on January 15, 2021. 86 Fed. Reg. 4198. The effective date of the final rule is March 16, 2021.

EPA states this final rule revises the National Primary Drinking Water Regulation for lead and copper under the authority of the Safe Drinking Water Act. 42 U.S.C. §§ 300f-300j-27. According to EPA, these revised requirements provide greater and more effective protection of public health by reducing exposure to lead and copper in drinking water. EPA states the rule will better identify high levels of lead, improve the reliability of lead tap sampling results, strengthen corrosion control treatment requirements, expand consumer awareness, and improve risk communication. According to EPA, the rule requires, for the first time, community water systems to conduct lead-in-drinking-water testing and public education in schools and child care facilities. In addition, EPA states the rule will accelerate lead service line replacements by closing existing regulatory loopholes, propelling early action, and strengthening replacement requirements.

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 Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive style with a large initial 'S' and 'J'.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Lanelle Wiggins
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
“NATIONAL PRIMARY DRINKING WATER REGULATIONS:
LEAD AND COPPER RULE REVISIONS”
(RIN: 2040-AF15)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) estimated this final rule would lead to an incremental total annualized cost of \$160,571,000 (low cost estimate) to \$335,481,000 (high cost estimate) at a 3 percent discount rate, and \$167,333,000 (low cost estimate) to \$372,460,000 (high cost estimate) at a 7 percent discount rate. Of this total cost, EPA estimated the cost to public water systems would be \$131,792,000 (low cost estimate) to \$298,820,000 (high cost estimate) at a 3 percent discount rate, and \$136,605,000 (low cost estimate) to \$330,908,000 (high cost estimate) at a 7 percent discount rate.

EPA estimated total monetized benefits of the rule, derived from quantifiable impact of health risk reduction and health benefits, to be \$223,344,000 (low cost scenario) to \$645,276,000 (high cost scenario) at a 3 percent discount rate, and \$39,353,000 (low cost scenario) to \$119,102,000 (high cost scenario) at a 7 percent discount rate. EPA further expected several non-quantified benefits from the rule, including decreased risk of adverse health effects due to lead exposure in both children and adults and reduced risk of adverse health effects associated with copper 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 included (1) a statement of the need for and objectives of the rule, (2) a summary of the Small Business Advocacy Review Panel comments and recommendations, (3) a summary of the proposed rule and public comments on the impacts to small entities, (4) the number and description of small entities affected, (5) a description of the compliance requirements of the rule, (6) an analysis of alternative small system rule requirements, and (7) a determination of final small system requirements under the final 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. EPA included an analysis of these impacts in its economic analysis. EPA determined the rule may significantly or uniquely affect small governments and stated it consulted with governmental entities affected. EPA further stated it also identified and analyzed a reasonable number of regulatory alternatives to determine the treatment technique requirements in the final rule.

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

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

On November 13, 2019, EPA published a proposed rule. 84 Fed. Reg. 61684. EPA received comments and responded to them in this 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 and stated that it submitted an information collection request (ICR) to the Office of Management and Budget (OMB) for approval under the OMB Control Number 2040-0204. EPA estimated annual net total burden hours of 1.06 to 1.13 million hours and a net burden cost of \$38.4 to \$41.1 million per year over the 3 years covered by the ICR.

Statutory authorization for the rule

EPA promulgated this final rule pursuant to sections 300f, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-4, 300j-9, and 300j-11 of title 42, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

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

Executive Order No. 13132 (Federalism)

EPA concluded that this final rule has federalism implications under the Order because it imposes substantial direct compliance costs on state or local governments. EPA stated that it consulted with state and local officials early in the process of developing the rule to permit them to have meaningful and timely input into its development. EPA stated that it held federalism consultations on November 15, 2011, and on January 8, 2018, and invited national organizations representing state and local elected officials to a meeting in Washington, D.C., on January 8, 2018. EPA further stated that it held five follow-up meetings between January 8 and March 8, 2018, and provided additional opportunity to receive written input within 60 days after the initial meeting.