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November 14, 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: National Primary Drinking Water Regulations for Lead and Copper: Improvements (LCRI)*

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 for Lead and Copper: Improvements (LCRI)” (RIN: 2040-AG16). We received the rule on October 10, 2024. It was published in the *Federal Register* on October 30, 2024. 89 Fed. Reg. 86418. The effective date of the rule is December 30, 2024.

This rule finalizes revisions to the National Primary Drinking Water Regulation for lead and copper. In the rule, EPA finalizes requirements for drinking water systems to replace lead and certain galvanized service lines. The rule also removes the lead trigger level, reduces the lead action level, and strengthens tap sampling procedures to improve public health protection and simplify implementation relative to the 2021 Lead and Copper Rule Revisions. Finally, the rule strengthens corrosion control treatment, public education and consumer awareness, requirements for small systems, and sampling in schools and childcare facilities.

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
“NATIONAL PRIMARY DRINKING WATER REGULATIONS
FOR LEAD AND COPPER: IMPROVEMENTS (LCRI)”
(RIN: 2040-AG16)

(i) Cost-benefit analysis

The Environmental Protection Agency (EPA) prepared an analysis of the costs and benefits for this rule. See 89 Fed. Reg. 86567–86607. At a two percent discount rate, EPA estimated that the quantifiable annual benefits of the rule will be \$13.49 billion to \$25.14 billion in 2022 dollars, and that the quantifiable annual costs of the rule will be \$1.47 to \$1.95 billion in 2022 dollars. *Id.* at 86420. EPA also stated that it assessed qualitative benefits of the rule, including the expected reduction of risk to the public from exposure to lead and copper in drinking water at the tap. *Id.*

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

EPA determined that this rule will have a significant economic impact on substantial numbers of small entities and prepared a Final Regulatory Flexibility Analysis. 89 Fed. Reg. 86607.

(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. 86610. EPA described these effects and the actions they 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 the rule.

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

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

On December 6, 2023, EPA published a proposed rule. 84 Fed. Reg. 84878. EPA stated that they received almost 200,000 public comments from various parties and held a public hearing on January 16, 2024. 89 Fed. Reg. 86421. 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. 86607.

Statutory authorization for the rule

EPA promulgated this rule pursuant to various sections of the Safe Drinking Water Act, 42 U.S.C. §§ 300f–300j-27.

Executive Order No. 12866 (Regulatory Planning and Review)

EPA stated that this rule is significant under the Order. 89 Fed. Reg. 86607. EPA stated that it submitted the rule to OMB for review. *Id.*

Executive Order No. 13132 (Federalism)

EPA determined that this rule does have federalism implications. 89 Fed. Reg. 86610.