



October 1, 2018

Andrew Wheeler, Acting Administrator
U.S. Environmental Protection Agency
ATTN: EPA ICR No. 2507.02
1200 Pennsylvania Avenue, NW
Washington, DC 20460

(Submitted electronically via website <https://www.regulations.gov>)

**Re: Agency Information Collection Activities; Proposed Renewal of an Existing Collection
(EPA ICR No. 2507.02); Comment Request**

Dear Acting Administrator Wheeler:

On July 31, 2018, EPA published a Notice in the Federal Register (83 FR 36926) titled “Agency Information Collection Activities; Proposed Renewal of an Existing Collection (EPA ICR No. 2507.02); Comment Request” (Notice).¹ The National Association of Home Builders (NAHB) appreciates this opportunity to provide comments on this Notice and EPA’s intention to request renewed Office of Management and Budget (OMB) clearance of an information collection related to the regulations set forth in 40 CFR 745, Subparts E, L and Q.²

NAHB has been actively engaged in EPA’s lead-based paint (LBP) program for the residential sector since its inception and has been an advocate for and supporter of reasonable worker training, lead safe work practice and firm certification requirements. The RRP program impacts many NAHB members as they conduct their home building and remodeling activities. Throughout the program’s development and implementation, NAHB has facilitated stakeholder engagement and provided ongoing input to EPA during various stages of the regulatory process.

NAHB is a federation of more than 700 state and local home builder associations nationwide. The organization’s membership includes over 140,000 firms engaged in land development, single and multifamily construction, remodeling, multifamily ownership, building material trades, and commercial and light industrial construction projects. The overwhelming majority of NAHB’s members are classified as “small businesses,” as defined by the U.S. Small Business Administration, and NAHB members collectively employ over 3.4 million people nationwide. EPA states in the preamble this information collection request specifically addresses the reporting and

¹ *Agency Information Collection Activities; Proposed Renewal of an Existing Collection*. 83 Fed. Reg. 36,926. (July 31, 2018). (Notice).

² The regulations in 40 CFR part 745, subpart E, cover work practice standards, recordkeeping and reporting requirements, individual and firm certification and enforcement for renovations done in target housing or child-occupied facilities. These regulations also require that a lead-based paint hazard information pamphlet be provided to the owner and occupant of target housing or child-occupied facilities (COFs), where renovations will be performed for compensation, except as otherwise specified, no more than 60-days prior to commencing the renovation. The regulations in 40 CFR part 745, subpart L, cover similar topics for lead-based paint activities done in target housing and child-occupied facilities. The regulations in 40 CFR part 745, subpart Q, establish the requirements that state or tribal programs must meet for authorization to administer the regulations described above.

recordkeeping requirements for individuals and firms conducting lead-based paint activities or renovation in or on houses, apartments, or child-occupied facilities built before 1978, under the authority of sections 402 and 404 of TSCA.³ Nearly forty four (44%) percent of NAHB builder members report remodeling activities as their primary or secondary line of business are therefore likely impacted by the information collection activities related to certain regulatory requirements referenced in this Notice.

For the purpose of these comments NAHB is focusing on the required recordkeeping certified remodelers are required to complete under the Lead; Renovation, Repair, and Painting (RRP) program. EPA never has finalized a standardized recordkeeping form or established standardized protocols for filling out the sample form for renovators required to certify compliance with the RRP rule's training, work practice, and other requirements.⁴ As a result, protocols for filling out forms and maintaining records have by necessity needed to be clarified repeatedly over the course of implementation. Too often issues remain unaddressed until after practitioners have been forced to confront them in the field.

For example, some renovators have been allowed to "pre-fill" company information on the forms, while others cannot; some renovators are able to fill out all or portions of the forms online, while others were instructed to do so by hand. This regional disparity makes it difficult for NAHB to advise its members, who operate across many different regions and states, on the applicable protocols. While NAHB appreciates EPA staff assurances that some of these regional disparities have been corrected, an OMB approved recordkeeping form provides far greater certainty that these issues will be avoided in the future.

In addition, subsequent to the 2017 hurricane season NAHB staff worked with EPA staff on recordkeeping issues related to the emergency response provision under the RRP rule.⁵ While NAHB's membership are grateful for the clarity provided by EPA's inclusion of the two new FAQ entries on the emergency response provision these clarifications cannot replace the certainty an OMB approved recordkeeping form provides. Moreover, by submitting required RRP recordkeeping form through the ICR process, EPA would be made aware of any concerns with clarity or scope of the recordkeeping form.

NAHB urges EPA to take steps to both (i) finalize a standardized recordkeeping form, by going through the full information collection request (ICR)/Office of Management and Budget (OMB) review process;⁶ and (ii) establish a uniform set of protocols for filling out the form. Overall, standardized forms and protocols would simplify the program and eliminate burdens some renovators face in determining *how* they should satisfy the rule's recordkeeping requirements.

³ 83 Fed. Reg. 36,927 (Tuesday, July 31, 2018)

⁴ See 40 CFR § 745.86. EPA has provided a sample recordkeeping "checklist" form. See *id.* at § 745.86(c)(3). However, renovators are not required to use this form.

⁵ See 40 CFR § 745.82(b)

⁶ EPA issued a draft ICR on recordkeeping requirements in January 2006. See EPA, *Notice of Proposed Rulemaking of Lead; Renovation, Repair, and Painting Program*, 71 Fed. Reg. 1,588 (Jan. 10, 2006); EPA ICR No. 1715.07. However, EPA never issued a finalized recordkeeping form in response to the ICR. NAHB urges EPA to issue a revised ICR on recordkeeping requirements.

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NAHB values the opportunity to respond to the notice on the ICR and help inform the renewal process. If you have any questions or if you would like to discuss NAHB's comments further, I can be reached at tspielvogel@nahb.org or (202) 266-88327. NAHB looks forward to continued opportunities to engage with EPA on efforts to further refine the programs to reduce childhood exposure to lead.

Sincerely,

A handwritten signature in cursive script, reading "Tamra Spielvogel".

Tamra Spielvogel,
National Association of Home Builders

cc: Charlotte Bertrand, Acting Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

John Yowell, National Program Chemicals Division, Office of Pollution Prevention and Toxics,
Environmental Protection Agency