



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 23 2018

MEMORANDUM

SUBJECT: ICR 2507.02 Lead Training, Certification, Accreditation, and Authorization Activities (Lead-Based Paint Activities Rule and Renovation, Repair, and Painting Rule)

FROM: *Brian Symmes*
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TO: Angela Hoffman, Director
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Office of Chemical Safety and Pollution Prevention

The current Lead Training, Certification, Accreditation, and Authorization Activities (Lead-Based Paint Activities Rule and Renovation, Repair, and Painting Rule) Information Collection Request expires on January 31, 2019. As part of the ICR renewal process, the EPA solicited public comment on the proposed information collection including regulatory compliance and cost burden. This ICR, "EPA ICR No. 2507.02, OMB Control No. 2070-0195," was open for public comment from July 31, 2018 to October 1, 2018. During the comment period the National Association of Home Builders submitted one comment.

Section 406(b) of TSCA requires the EPA to promulgate regulations requiring certain persons who perform renovations for compensation on target housing to provide a lead hazard information pamphlet (developed under TSCA section 406(a)) to the owner and occupants of such housing prior to beginning the renovation. Further, the firm performing the renovation must keep records acknowledging receipt of the pamphlet on file for three years after completion of work.

TSCA sections 402 and 404 require the EPA to develop and administer a training and certification program as well as work practice standards for persons who perform lead-based paint activities and/or renovations. The following regulations also apply:

- 40 CFR part 745, subpart E, covers work practice standards, recordkeeping and reporting requirements, individual and firm certification, and enforcement for renovations done in target housing or child-occupied facilities.
- 40 CFR part 745, subpart L, covers inspections, lead hazard screens, risk assessments, and abatement activities (referred to as "lead-based paint activities") done in target housing and child-occupied facilities.
- 40 CFR part 745, subpart Q, establishes the requirements that state or tribal programs must meet for authorization to administer the standards, regulations, or other requirements established under TSCA Section 402.

Entities potentially affected by this ICR include persons who are engaged in lead-based paint activities and/or perform renovations of target housing or child-occupied facilities for compensation, dust sampling, or dust testing; or who perform lead-based paint inspections, lead hazard screens, risk assessments or abatements in target housing or child-occupied facilities; or who provide training or operate a training program for individuals who perform any of these activities; or state, territorial or Native American agencies that administer lead-based paint activities and/or renovation programs. This ICR renewal will cover the information collection activities associated with the reporting and recordkeeping requirements for individuals, firms and state and local government entities conducting lead-based paint activities or renovations of target housing and child-occupied facilities; training providers; and states/territories/tribes/Alaskan native villages. This ICR renewal will also cover the information collection activities associated with the application for, and maintenance of, certifications to conduct such activities and related recordkeeping requirements.

The comment submitted by the National Association of Home Builders covered two topics of concern. First, NAHB is asking the EPA to standardize the sample recordkeeping checklist and establish standardized protocols for filling it out. Second, while requesting the standardized recordkeeping checklist and protocols, NAHB asserts that the EPA never finalized an Information Collection Request featuring the recordkeeping checklist.

Regarding a standardized checklist, NAHB believes doing this would help renovators understand how the recordkeeping requirements may be satisfied. The EPA received a similar comment in a previous rulemaking in 2010, in which the recordkeeping checklist was updated (Opt-Out Final Rule, 75 FR 24802, at 24808, May 6, 2010). However, the EPA disagreed with the comment and reinforced that the “Agency wants to give renovation firms flexibility with regard to the format of the information given to owners and occupants. Renovation firms must list the information specified in the regulations and they can use EPA’s sample checklist if they choose. However, the final rule allows firms to use their own version of the checklist as long as it includes the required information.” (*Id.*). The EPA continues to disagree that a standardized recordkeeping checklist is needed, and wants to maintain the flexibility for firms to use their own version of the checklist.

In terms of establishing standardized protocols for filling out the checklist, the EPA notes that the required information was summarized in that same 2010 rulemaking:

“The specific information that is required to be provided are the training and work practice compliance information required to be maintained by 40 CFR 745.86(b)(7), as well as identifying information on the manufacturer and model of the test kits used, if any, a description of the components that were tested including their locations, and the test kit results. The checklist or form must include documentation that a certified renovator was assigned to the project, that the certified renovator provided on-the-job training for workers used on the project, that the certified renovator performed or directed workers who performed the tasks required by the RRP rule, and that the certified renovator performed the post-renovation cleaning verification. This documentation must include a certification by the certified renovator that the work practices were followed, with narration as applicable. However, EPA is not requiring that the renovation firm automatically provide a copy of the certified renovator’s training certificate, which must be maintained in the firm’s records pursuant to 40 CFR 745.86(b)(7), as an attachment to the checklist or other form.” (Opt-Out Final Rule, at 24808).

The EPA disagrees that, in addition to the information listed above, standardized protocols are needed to understand how to fill out the checklist beyond including what information is required, and the EPA believes it should maintain firms' flexibility in fulfilling this requirement.

In regard to the assertion that the EPA never finalized an ICR featuring the recordkeeping checklist, NAHB states that "an OMB approved recordkeeping form provides far greater certainty . . ." The EPA disagrees that the EPA never finalized an ICR featuring a recordkeeping checklist. A final version of the draft sample recordkeeping checklist from EPA ICR No. 1715.07 (OMB Control No. 2070-0155) was approved on November 3, 2008 (EPA ICR No. 1715.10, OMB Control No. 2070-0155), and extended on July 6, 2010 (EPA ICR No. 1515.12, OMB Control No. 2070-0155). The recordkeeping checklist was revised and again approved on December 21, 2012 (EPA ICR No. 1715.13, OMB Control No. 2070-0155), with subsequent extensions on August 27, 2015 (EPA ICR No. 1715.14, OMB Control No. 2070-0155), and on January 8, 2016 (EPA ICR No. 2507.01, OMB Control No. 2070-0195).

After taking all submitted information into consideration, the EPA found no additional data that would compel a revision to this ICR. In closing, the EPA appreciates NAHB's perspective and their participation in this ICR renewal public comment exercise.

If you have any questions about the ICR renewal package, please contact Michelle Price at (202) 566-0744 or price.michelle@epa.gov.