



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

JUN 15 2011

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

MEMORANDUM

SUBJECT: Response to Public Comments on ICR No. 1715.13 – TSCA Section 402 and Section 404 Training, Certification, Accreditation and Standards for Lead-Based Paint Activities and Renovation, Repair and Painting

FROM: *FOR* *Brian Symmes*
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TO: Angela Hoffman, Director
Regulatory Coordination Staff

EPA published a notice in the Federal Register on January 26, 2011 requesting comments on a renewal Information Collection Request (ICR) for TSCA Section 402 and Section 404 Training, Certification, Accreditation and Standards for Lead-Based Paint Activities and Renovation, Repair and Painting, ICR No. 1715.13, OMB Control No. 2070-0155. During the 60-day comment period, EPA received more than 100 comments. The majority of these comments came from contractors and window firms. Other comments came from anonymous individuals, window/door firms, building supply stores, trade associations, a consulting firm, an individual, and an author.

Most commenters expressed some sort of negative sentiment towards the content of the underlying regulation, EPA's 2008 Lead Renovation, Repair, and Painting Program Rule (RRP Rule) (73 FR 21691-21769), generally, or towards a specific aspect of the RRP Rule such as the opt-out provision, enforcement, lead-test kits, containment, clearance testing, cleaning and cleaning verification, minor repair and maintenance, firm certification fees, and a handful of other miscellaneous topics. While EPA appreciates the efforts made to participate in the ICR renewal process, a large number of the comments were either unrelated to information collection activities or did not contain enough detail or information to allow EPA to substantively alter or otherwise improve the information collection activities addressed in the ICR renewal. Below is a brief summary of the remaining comments that were relevant to this ICR renewal and EPA's responses to them.

General Comments Related to Recordkeeping and Reporting

Approximately 20 commenters generally referenced the RRP recordkeeping and reporting requirements – activities relevant to ICR No. 1715.13. These submissions were typically unspecific in nature, such as comments that the recordkeeping and reporting requirements take too much time or add too much expense. Other commenters stated, with more or less detail, that EPA underestimated the recordkeeping costs. Some of these commenters provided alternative estimations of the recordkeeping burden (e.g., RRP recordkeeping adds \$X or Y minutes per job). These estimations were generally higher than EPA's estimates in the ICR. EPA developed the recordkeeping requirements for the RRP Rule to be simple enough to be completed in a relatively short amount of time. To facilitate this, EPA created a sample 1-page recordkeeping checklist that contractors can use to demonstrate that a particular renovation was performed in accordance with the RRP Rule. Contractors may choose to keep other records, such as photographs, but they are not required to do so. Because the commenters did not specify the activities accounted for in the generic estimates, EPA is unable to use the comments to substantively alter or otherwise improve the information collection activities in the ICR.

Suggestions Related to Recordkeeping and Reporting

Two commenters suggested making changes to the recordkeeping and reporting requirements. For example, one commenter suggested eliminating all paperwork associated with the RRP Rule. EPA disagrees with this suggestion and believes that the recordkeeping and reporting activities are necessary to ensure effective implementation of the RRP Rule. Further, recordkeeping and reporting activities are required by Section 407 of TSCA. As mentioned in the ICR, less frequent collection (or none at all) is not feasible. Therefore, EPA will not be making any change in response to this comment.

Another commenter suggested that EPA create standard forms for all recordkeeping requirements. The RRP Rule does not require that records be kept in any particular form, although EPA has developed and made publicly available sample recordkeeping forms on its website. When developing the RRP Rule, EPA chose to provide renovation firms with the flexibility to develop and use their own recordkeeping formats. EPA believes that this flexibility is both beneficial and desired, and therefore will not be making any changes in response to this comment.

Comments related to Specific Information Collection Activities

Activities Already Included in ICR Burden Statement

Several commenters identified specific activities they felt were missing from EPA's burden and cost estimates for this ICR. Many of these activities and tasks are actually already included in the ICR. For example, the cost and burden of documenting lead-safe work practices as they are completed, documenting results of lead-test kits, delivering results to homeowners, and administrative copying and filing are all accounted for in the Checklist Provision and Recordkeeping lines of Exhibit 6.6. These estimates are adopted directly from EPA's 2008 Economic Analysis for the RRP Rule and EPA's 2010 Economic Analysis for the TSCA Lead

Renovation, Repair, and Painting Opt-Out and Recordkeeping Final Rule for Target Housing and Child-Occupied Facilities (75 FR 24802).

Storage of Records

A few commenters pointed out that EPA did not include the costs of storage for records. EPA agreed that these costs were absent from the draft ICR and should be considered. The ICR has since been revised and now accounts for the time and costs of storage on a per-sheet-stored basis and includes the cost of filing cabinets. These revisions are reflected in Exhibit 6.13.

One commenter provided a detailed estimate of storage costs that were higher than EPA's estimates. However, the commenter's estimates were partially based on a six-year document maintenance schedule – twice as long as the required three years. The commenter also included an estimate for the cost of digital photograph documentation. While EPA appreciates this information, these practices are not required. As such, no change to the ICR is necessary.

Variance in Recordkeeping Burden Estimates Based on Size/Type of Job

One commenter suggested that recordkeeping and other ICR related burdens would vary dramatically depending on the size and type of job, and that EPA should reflect this variance in its burden estimates. EPA recognizes the potential for variance in the numbers articulated in the ICR, but believes that these estimates appropriately represent the average burdens and costs associated with the information collection activities. As such, EPA believes that the estimates are adequate and a change to the ICR is not necessary.

Recordkeeping Checklist

Several commenters suggested that EPA's estimates are inadequate to account for the time necessary to fill-out, review, and explain the recordkeeping checklist to the homeowner. As a primary matter, these costs are already accounted for in Exhibit 6.6. Filling out the checklist and providing it to the homeowner are part of the "Recordkeeping" and "Checklist Provision" lines, respectively.

A few commenters suggested that it takes much longer than EPA's estimate of three minutes to explain the recordkeeping checklist and other materials to the homeowner. However, another commenter suggested that EPA's estimate on this point was too high, and that sharing the recordkeeping checklist and any lead-test kit results with the homeowner takes only two minutes: 60 seconds to share the lead-test kit results, and 60 seconds to share the recordkeeping checklist. Therefore, EPA believes that its estimate of three minutes to perform this activity is sufficient, and a change to the ICR is not necessary.

Pre-Renovation Education

A few commenters provided estimates of the costs and burdens associated with providing pre-renovation education. The costs and burdens associated with pre-renovation education are accounted for in ICR No. 1669.06: "Lead-Based Paint Pre-Renovation Information

Dissemination – TSCA Sec. 406(b).” The appropriate forum for comment on information collection activities related to pre-renovation education is within the Federal Register docket for ICR No. 1669.06, at EPA-HQ-OPPT-2010-0911. That ICR is scheduled to expire on August 31, 2011. To avoid duplication, EPA will not address these burdens in ICR No. 1715.13.

Renovator Certification

One commenter suggested that the ICR failed to account for the burden of certification requirements for individual renovators under 40 CFR §745.90. It is true that the ICR accounts for an RRP firm certification burden but not an individual renovator certification burden. However, this is because, unlike RRP firm certification, individual renovator certification does not involve an information collection activity and there is therefore no associated burden. Therefore, no change to the ICR is necessary as a result of this comment.

If you have any additional questions or concerns, please contact feel free to contact Ryan Schmit of my staff at (202) 564-0610.